Administrative Register of Kentucky

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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

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Title		Chapter		Regulation
806	KAR	50	:	155
Cabinet Department, Board or Agency		Bureau, Division or Major Function		Specific Area of Regulation

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Public Hearings Scheduled

KENTUCKY ATHLETIC COMMISSION

A public hearing will be held at 2 p.m. EDT August 16, 1979, at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on the following fourteen regulations:

201 KAR 27:005 to 201 KAR 27:070. [5 Ky.R. 1102-1109]

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

A public hearing will be held at 1 p.m. EDT August 2, 1979, in the Basement Auditorium of the Capital Plaza Tower, Frankfort, Kentucky on the following regulations:

815 KAR 7:010. Administration and enforcement. [5 Ky.R. 1113]
815 KAR 7:020. Building code. [5 Ky.R. 1120]
815 KAR 7:030. Energy code. [5 Ky.R. 1121]

DEPARTMENT FOR HUMAN RESOURCES

A public hearing will be held at 9 a.m. EDT July 24, 1979, in the Vital Statistics Conference Room of the New DHR Building, 275 East Main Street, Frankfort, Kentucky on the following regulation:

905 KAR 1:085. Foster care review. [5 Ky.R. 963]

Emergency Regulation Now In Effect

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-473
May 30, 1979

EMERGENCY REGULATION
Public Protection and Regulation Cabinet

WHEREAS, KRS 250.483 requires the Division of Fire Prevention to make, promulgate and enforce regulations setting forth minimum general standards covering the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer and utilizing anhydrous ammonia; and

WHEREAS, said regulations are further required by KRS 250.483 to be in substantial conformity with the published standards of the Agriculture Ammonia Institute of the Compressed Gas Association for the design, installation and construcion of containers and equipment for the storage and handling of anhydrous ammonia; and

WHEREAS, the current Standards of Safety as adopted in 815 KAR 10:015 do not include any provisions for the regulation of anhydrous ammonia although such regulation is necessary to provide adequate safety to the people of Kentucky from the improper transportation and handling of this explosive chemical; and

WHEREAS, the normal process for final approval of the authorities proposed regulation by the Administrative Procedures Committee under KRS Chapter 13 will deny enforcement of said standards during the very season which the handling and transportation of anhydrous ammonia is most prevalent; and

WHEREAS, the Secretary of the Public Protection and Regulation Cabinet has stated that an emergency exists and recommends that the attached regulation become effective upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, pursuant to authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of the Secretary of the Public Protection and Regulation Cabinet that an emergency exists, and direct that the attached regulation become effective upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor
DREXELL R. DAVIS, Secretary of State

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 30:040E. Anhydrous ammonia.

RELATES TO: KRS 250.483, 250.484
PURSUANT TO: KRS 227.300, 250.483
EFFECTIVE: May 31, 1979
EXPIRES: September 22, 1979
NECESSITY AND FUNCTION: KRS 250.484 requires that all equipment connected with anhydrous ammonia shall be installed and maintained in conformity with the rules and regulations of the Department. Pursuant to KRS 227.300, the functions, duties and responsiblities vested in the Department of Insurance, concerning anhydrous ammonia were transferred to the Division of Fire Prevention, Department of Housing, Buildings and Construction. This proposed regulation sets forth the safety regulations for the storage and handling of anhydrous ammonia.

Section 1. "Anhydrous ammonia" means the compound found by the combination of two (2) gaseous elements, nitrogen and hydrogen, in the proportion of one (1) part nitrogen to three (3) parts of hydrogen by volume. Anhydrous ammonia is ammonia gas in compressed or liquefied form, and is not aqueous ammonia.

Section 2. Scope. (1) The minimum standards set forth in Section 3 are intended to apply to the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing anhydrous ammonia.

(2) This standard does not apply to:

(a) Ammonia manufacturing plants.

(b) Refrigeration plants where ammonia is used solely as a refrigerant. It is suggested that such plants refer to ANSI-B-9-1, Code for Mechanical Refrigeration.

(c) Ammonia transportation pipelines.

Section 3. Standards. The standards for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing anhydrous ammonia shall be American National Standards (safety regulations for the storage and handling of anhydrous ammonia) ANSI K 61.1-1972, also known as either CGA-G-2.1-1972 or TFI-MO1972, filed herein by reference. This standard represents the consensus of the Compressed Gas Association, Inc., the Fertilizer Institute and other interested parties concerning minimum safety regulations for the storage, transportation and handling of anhydrous ammonia. Copies are available for a fee from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

CARL F. SMOAK, Acting Commissioner
ADOPTED: May 29, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: May 31, 1979 at 10:00 a.m.

Amended Regulations Now In Effect

DEPARTMENT OF FINANCE
Board of Hairdressers and Cosmetologists
As Amended

201 KAR 12:100. Sanitation standards.

RELATES TO: KRS 317A.060
PURSUANT TO: KRS [317A.030] *317A.130*
EFFECTIVE: June 6, 1977
NECESSITY AND FUNCTION: [KRS 317A.030 prohibits licensees suffering from communicable diseases from working on the public.] KRS 317A.060 authorizes the Kentucky State Board of Hairdressers and Cosmetologists to regulate the practice of cosmetology in Kentucky and establish uniform standards for sanitation.

[Section 1. (1) Any licensee, student, or employee of an establishment licensed by this board shall not be allowed to practice if being known to have any communicable or infectious diseases.]

[(2) No person having communicable or infectious diseases shall be rendered service by any licensee or student of cosmetology.]

Section *1.* [2.] All establishments, including furniture, equipment, utensils, floors, walls, ceilings, restrooms and lavatories shall be kept in a clean and sanitary condition. [Individual soap and] Clean towels shall be provided for use of the patrons. The use in common of towels of any type is prohibited.

Section *2.* [3.] Each student, apprentice cosmetologist, and cosmetologist shall have a sufficient number of combs and brushes at their disposal. Said combs and brushes must be sterilized after each use. No comb or brush shall be used in common on any patron. Any article dropped on the floor shall be disinfected before being used again.

Section *3.* [4.] All water supply and waste connections shall be constructed in conformity with the city, county, and state plumbing statutes, regulations, and code.

Section *4.* [5.] A sufficient number of covered waste receptacles shall be provided in every establishment for disposal of trash and other waste.

[Section 6. No towel shall be used on more than one (1) person without laundering. Drying of towels or linens on lines or radiators in licensed establishments is prohibited.]

Section *5.* [7.] A protective covering must be placed around the patron's neck so the cape does not come into contact with the nude skin. The protective covering must be discarded after each use.

[Section 8. All tweezers, combs, brushes, and perm wave rods must be washed with hot water and soap and disinfected and placed in a dry sterilizer. Only such methods of disinfection as are bacteriologically effective shall be permitted. The Department for Human Resources, Bureau for Health Services, has approved the following methods of disinfection:]

[(1) Dry Disinfection: Formaldehyde gas has a place in disinfecting valuable articles, but it has no penetrating power and is limited in its action to the surface. Further, it requires a temperature of sixty-five (65) degrees Fahrenheit or over and a humidity of at least sixty (60) degrees Fahrenheit to be effective. Exposure of at least six (6) to twelve (12) hours in a small type cabinet to strong concentration of the gas is necessary to achieve surface disinfection. Formaldehyde gas cannot be depended upon to accomplish more than surface disinfection under optimistic conditions.]

[(2) Liquid disinfection:]

[(a) Bichloride of mercury (corrosive sublimate) is a very effective germicide, but poisonous to humans and corrodes metals. It is usually used in a 1-1000 solution and made by mixing and dissolving one (1) dram of bichloride of mercury in one (1) gallon of water or a gram of chlorine in one (1) liter (quart) of water. Direct exposure to this solution for one-half (½) hour is usually sufficient to destroy all harmful bacteria.]

[(b) Carbolic acid and phenol are useful disinfectants in five (5) percent solutions (seven (7) ounces to one (1) gallon of water) with exposure for one-half (½) hour. They are effective against all ordinary harmful bacteria.]

[(c) Sodium hypochlorite solutions made up from effective preparations and containing 200 p.p.m. of chlorine are effective for the surface disinfection of equipment which has been thoroughly cleaned. Contact with the solution should not be for less than two (2) minutes.]

[(d) A ten (10) percent solution of Formalin is satisfactory for disinfection of all equipment. Formalin does not attack copper, nickel, zinc, or other metal substances.]

[(e) Instruments are to be disinfected by boiling water and should be boiled at least fifteen (15) minutes. (One (1) percent alkaline substance, such as carbonate of soda will prevent rusting, or injury to the cutting edge of bright steel instruments.)]

[(f) A seventy (70) percent solution of alcohol is an effective disinfectant for cleaning equipment.]

[(g) Steam sterilization at fifteen (15) pounds pressure at 248 degrees Fahrenheit for thirty (30) minutes is an effective means of sterilization. Steaming steam has the disinfecting power as boiling water and exposure for one-half (½) hour to steaming steam is sufficient for most purposes.]

Section 6. The Department for Human Resources, Bureau for Health Services, has approved the following methods of disinfection:

(1) Dry disinfection: The use of Formalin and ultraviolet rays are considered acceptable methods of dry disinfection provided labels and manufacturer's directions are followed.

(2) Liquid disinfection:

(a) A ten (10) percent solution of Formalin is satisfactory for disinfection of all equipment. Formalin does not attack copper, nickel, zinc, or other metal substances.

(b) A seventy (70) percent solution of alcohol is an effective disinfectant for cleaning equipment.

(c) Any other liquid disinfectant approved by the Department for Human Resources will be acceptable, provided labels and manufacturer's directions are followed.

Section 7. [9.] Use of brush rollers [of any type] are prohibited in any establishment licensed by this board.

Section 8. [10.] (1) The following grading shall be used for the inspection of any salon or school of cosmetology: 100%-90% = A; 89%-80% = B; 79%-70% = C.

(2) Any standard of less than an "A" rating will indicate failure to comply with the statutes and regulations of the board.

ROBERT SLATON, Commissioner
CARROLL ROBERTS, Administrator
ADOPTED: March 5, 1979

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Examiners and Registration of Architects
As Amended

201 KAR 19:095. Professional practice standards; violations, penalties.

RELATES TO: KRS 323.095, 323.120
PURSUANT TO: KRS 323.210
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: To define basis for board to proceed against architects for unprofessional practice.

Section 1. Penalties for Unprofessional Practice. (1) The board may refuse to renew or may suspend for a period or revoke any license, or forbid practice by any architect for any of the following reasons:

(a) Gross incompetency or gross negligence.

(b) Unprofessional conduct or conduct tending to bring the profession into disrepute.

(c) Conviction of a felony.

(d) Fraudulent or dishonest architectural practice.

(e) Use of false evidence, or misrepresentation in an application for licensing.

(f) Signing or affixing his seal to any plans, prints, specifications for buildings, or reports which have not been prepared by him personally or by his employees under his supervision.

(2) The procedure for such action shall be in accordance with the provisions of KRS 323.130 and 323.140.

Section 2. Gross Incompetence and Gross Negligence Defined. The following acts or omissions shall be deemed to be gross incompetence or gross negligence within the meaning of the law and be cause for denial, suspension or revocation of a license:

(1) Willfully failing to use reasonable care and diligence in his professional practice, resulting in a building or structure being improperly constructed to the detriment of the occupants.

(2) Willfully failing to use reasonable care and diligence in preparing drawings, specifications, and other documents relating to the design and construction of buildings for the protection of a client in all relationships as agent of the client.

Section 3. Unprofessional Conduct Defined. Any of the following acts by an architect shall be deemed to be "unprofessional conduct" and be cause for denial of registration, or suspension, revocation or refusal to renew a license to practice architecture:

(1) Accepting compensation for architectural services from other than his client or employer.

(2) *Offering or making any payment or gift to a government official (whether elected or appointed) with intent of influencing the official judgment in connection with a prospective or existing project in which the architect is interested.* [Submitting competitive bids for professional employment, or knowingly competing against another architect on the basis of professional charges, or using kickbacks or forgiveness of portions of his fee in order to obtain competitive advantage; or furnishing uncommissioned architectural services of any kind in the attempt to obtain competitive advantage; or misrepresenting his qualifications.]

(3) *Offering or making any gifts, except [other than] gifts of nominal value (including, for example, reasonable entertainment and hospitality), with intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.* [Having a financial interest in the manufacture, sale or installation of any component or process used in a project for which he is the architect unless his client has been so advised and has waived any objection he may have had thereto.]

(4) *Soliciting or allowing self-laudatory, exaggerated, misleading, or false publicity in any publication.* [Publicly endorsing a product, system, or service, or permitting the use of his name or photograph to imply such endorsement. However, he may be identified with any product, system, or service designed or developed by him.]

(5) *Having a financial interest in the manufacture, sale or installation of any component or process used in a project for which he is the architect unless his client has been so advised and has waived any objection he may have had thereto.* [Engaging an agent or representative to solicit work on his behalf whose compensation is either (i) unreasonable or (ii) contingent, in whole or in part, upon the obtaining of professional work for the architect.]

(6) *Publicly endorsing a product, system, or service, or permitting the use of his name or photograph to imply such endorsement. However, he may be identified with any product, system, or service designed or developed by him.* [Using paid advertising; indulging in self-laudatory, exaggerated, misleading, or false publicity; or soliciting, or permitting others to solicit in his name, advertisements for any publication presenting his work.]

(7) *Engaging an agent or representative to solicit work on his behalf whose compensation is either unreasonable or contingent, in whole or in part, upon obtaining professional work for the architect.* [Falsely or maliciously injuring the professional reputation, prospects or practice of another architect.]

(8) *Using paid advertising except as allowed in this subsection:*

(a) An individual architect or an architectural firm may advertise its services as authorized by these regulations, and not otherwise. Such advertisement shall be confined to the name of the firm, address, telephone number, a statement of the fields of practice in which qualified, and cost of services. It may be printed in a regularly published newspaper, magazine, directory, or similar publication or may be read by an unidentified person on radio or television.

(b) An architect or architectural firm which advertises a fee for specific services and accepts such employment must perform such services for the amount stated, and a statement to that effect shall be included in every advertisement. [Attempting to supplant another architect after a definite commitment has been made by the client for the latter's employment.]

[(9)Undertaking a commission for which he knows another architect has been retained until he has conclusively determined that the original commission has been terminated with reasonable compensation for work already performed by the latter.]

Section 4. Conviction of a Felony. Any conviction of a felony within the United States of America or its possessions is prima facie evidence of misconduct.

Section 5. Fraudulent or Dishonest Practice Defined. The following practices shall be deemed to be "fraudulent or dishonest practice" within the meaning of the law and be cause for denial, suspension or revocation of a license to practice architecture:

(1) Making untrue or deceitful statements in an application for examination or registration, or in any other statements or representations to the board.

(2) Affixing his seal to any drawings other than those for which he is the author. All plans must be sealed by the author or authors thereof. "Authors" is defined as those in responsible charge of the preparation of plans which are made by them personally or under their supervision.

(3) Bribing any person or persons who may influence the selection of an architect.

(4) Willfully misleading or defrauding any person or persons employing him as an architect.

(5) Willfully violating the laws of Kentucky or any other state, where such are applicable, relating to the practice of architecture; or willfully violating any rule or regulation of this board made in pursuance to law.

(6) Using, or attempting to use, or practicing under, a license that has been suspended or revoked or which has not been renewed as required by law and the regulations of the board.

Section 6. Registration While Working for Others. (1) An architect may work as the employee of another architect without affecting the status of his registration.

(2) Or he may work as an employee for any firm in which his duties are not those of any architect, without affecting the status of his registration. But if he works as an architect for, or with, an individual not an architect, or a firm or corporation not under the control of architects, then he must maintain free and unbiased judgment and unrestrained use of his professional prerogatives and services to clients; and the terms of his employment or agreement shall be compatible therewith, and such as to permit full compliance with the "obligations of practice," and these regulations.

(3) Violations of these requirements shall be cause for a license to be denied, suspended or revoked.

Section 7. Office Staffing. (1) A firm, partnership, or association maintaining one or more places of business in this state, except where a project office is established only for on-site supervision or inspection; shall maintain in charge of each separate place, a resident registered architect; "resident" as used in this section shall mean the architect or architects who spend the majority of the normal office hours in said place of business. The firm, partnership, or association shall inform the board of the name or names of the resident architect or architects in charge of each separate place of business.

(2) Violations of this requirement shall be cause for a license to be denied, suspended or revoked.

L. WAYNE TUNE, Executive Director
ADOPTED: March 9, 1979

DEPARTMENT OF FINANCE
Board of Physical Therapy
As Amended

201 KAR 22:105. Certification of assistants.

RELATES TO: KRS 327.040
PURSUANT TO: KRS 327.040
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: Because certification may be achieved in several ways, this regulation points out the types of candidates, the fee and procedure for making application to the State Board of Physical Therapy as a candidate for certification as a physical therapist's assistant.

Section 1. An applicant for certification as an assistant shall file written application on a form obtained from the secretary of the Kentucky State Board of Physical Therapy. Upon return of the completed application and a money order or certified check in the amount of *forty-five dollars ($45)* [thirty-five dollars ($35)], made payable to the Kentucky State Treasurer, the applicant becomes an official candidate for certification as an assistant.

Section 2. *Six (6)* [Five (5)] types of candidates will be accepted for certification:
(1) Examination,
(2) Reciprocity,
(3) Endorsement,
(4) Grandfather clause,
(5) Reinstatement, and
(6) Special.

Section 3. Upon board approval of a candidate for the examination, the candidate will be notified. Examination will be held at a time and location set by the board. The candidate will be notified of exact time, date and place no less than two (2) weeks before the examination.

MICKEY BARON, Chairman
ADOPTED: April 2, 1979

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
As Amended

301 KAR 2:108. Deer and turkey season on specified federal areas.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390
PURSUANT TO: KRS 13.082
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: This regulation pertains to the deer gun and archery season and the turkey archery season on specified federal lands. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of deer and turkey within reasonable limits based upon an adequate supply.

Section 1. Deer and Turkey Season on Specified Federal Areas. Unless stated herein, statewide deer gun and archery season regulations apply.

(1) Land Between the Lakes Wildlife Management Area located in Trigg and Lyon Counties:

(a) Deer archery hunts (either sex): White-tailed or fallow deer. October 10 through November 9. December 8 through December 31.

(b) Quota deer hunts:

1. Quota gun hunts: White-tailed or fallow deer. Bucks only with one (1) antler at least four (4) inches in length, measured from the skin to the tip of the antler. Some areas either sex as specified on permit. November 14, 17-18, 20-21, 24-25, and 28-29.

2. Quota archery hunts: Only antlerless white-tailed or fallow deer in that portion of the Environmental Education Center designated as hunt area 17. November 14, 17-18, 20-21, 24-25 and 28-29.

(c) Turkey archery hunts: Gobblers only with visible beards. Statewide limit of one (1) per calendar year applies. October 10 through November 9 and December 8 through December 31. Hunter must have a valid wild turkey permit in possession when a turkey is taken. Turkey hunting will not be allowed after a hunter has harvested a deer.

(d) Quota deer gun hunt for youths only: One (1) white-tailed or fallow deer of either sex on November 17-18. Hunting is restricted to persons at least ten (10) years of age but who have not reached their sixteenth (16th) birthday. Each youth must be accompanied by an adult and must have a valid Kentucky hunting license, a state deer permit, a Land Between the Lakes Youth Hunt Permit and a Hunter Safety Certificate.

(e) Bag limits: The deer bag limit for the Kentucky portion of Land Between the Lakes is two (2) deer provided; only one (1) deer of either sex is taken during the Land Between the Lakes deer archery season October 10 through November 9 and December 8 through December 31, and one (1) deer is taken during any quota gun or archery hunts at Land Between the Lakes. Persons who take a deer elsewhere in Kentucky may take a second deer at Land Between the Lakes. Persons who take their first deer at Land Between the Lakes are not eligible to hunt deer elsewhere in Kentucky except at Ballard and Fort Campbell Wildlife Management Areas. Under no circumstances may an individual hunter take more than two (2) deer in the state.

(f) Areas open and closed to hunting: State line to Barkley Canal is open to hunting except for developed public use areas (unless posted as open), safety zones and posted areas. Duncan Bay Area on Kentucky Lake is closed to all activity during the dates designated by signs posted along the boundary as an eagle and waterfowl refuge.

(g) Youth and quota hunt applications: A drawing by computer will select hunters for each of these hunts. Application forms are available from, and must be submitted to, Kentucky Deer Hunt, Land Between the Lakes, Golden Pond, Kentucky 42231 and be post marked no later than midnight August 4 or delivered in person to the Wildlife Management office at Golden Pond, Kentucky by 4:30 p.m. of this same date.

(h) Checking in and out:

1. Quota gun hunters. All gun hunters, including those camping in Land Between the Lakes, must check in, but will not be required to check out unless a deer is harvested. Hunters must check in between 9:00 a.m. and 5:00 p.m. the day before the hunt, or after 4:00 a.m. on hunt days. Check stations will be open from 4:00 a.m. to 6:30 p.m. (CST) on hunt days.

2. Archery hunters. Archery hunters are not required to check in or out except on quota hunts. All deer and turkey harvested must be checked out.

(i) Permits and tagging requirements:

1. Permits. A Land Between the Lakes bowhunting permit is required for each hunter participating in the deer archery season and a computer card permit is required for each hunter participating in the quota deer gun or archery hunts.

2. Tags. All harvested deer and turkey must be tagged with a Land Between the Lakes permanent game tag before being removed from the area. In addition, the first deer or turkey harvested must also have the state tag attached. Hunters eligible to harvest a second deer on Land Between the Lakes must present their copy of the Land Between the Lakes permanent game tag which was attached to the first deer harvested. They will be issued a free permit, allowing them to hunt for a second deer. Permanent Land Between the Lakes game tags will be attached to all harvested deer and turkey at the Land Between the Lakes check stations.

(j) Prohibited and permitted weapons. All deer hunting weapons listed in the statewide deer gun and archery season regulation are permitted except for crossbows. Muzzle-loading shotguns firing a single projectile per barrel are permitted.

(k) For Land Between the Lakes general hunting rules refer to 301 KAR 2:050.

(2) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. There will be no hunting on Mondays and Tuesdays except when Monday is a federal holiday. An exception to this is December 25 and January 1 when no hunting will be permitted.

(a) Deer archery (either sex): October 3 through October 8 and October 13 through November 18 on selected areas. December 8-9, 15-16 and December 19 through December 30 on selected areas.

(b) Deer gun (either sex): October 13 through November 18. December 8-9, 15-16 and December 19 through December 30 on selected areas.

(c) Bag limits: The bag limit for Kentucky license holders hunting on Fort Campbell will be two (2) deer of either sex taken by either gun or bow provided; only one (1) deer of either sex is taken by gun or bow during the first hunting period of October 3 through November 18, and one (1) deer of either sex by gun or bow during the second hunting period of December 8 through December 30. If no deer is taken during the first hunting period, this does not entitle the hunter to take two (2) deer during the second hunting period. Persons who take their first deer at Fort Campbell are not eligible to hunt deer anywhere else in the state except at the Ballard Wildlife Management Area and Land Between the Lakes. Persons who take a legal deer elsewhere in Kentucky may take only one (1) deer at Fort Campbell. Under no circumstances may an individual hunter take more than two (2) deer on a Kentucky deer permit.

(d) Permits and tagging requirements:

1. Deer hunters must purchase a fifteen dollar ($15) post hunting and fishing permit which includes a Fort Campbell deer tag, at building #6645. All Fort Campbell deer hunters must also have a valid Kentucky deer permit. Persons sixty-five (65) years of age or older are not required to purchase a post hunting and fishing permit.

2. All deer taken on post must have a valid deer tag attached to the carcass.

3. All persons taking a deer on post during the first hunting period will have their name, address and permit number recorded and their state permit stamped by Fort Campbell authorities at building #6645. This will entitle the individual to receive a free Fort Campbell deer tag for use during the second hunting period.

4. Any person legally taking a deer elsewhere in Kentucky may obtain the necessary special Fort Campbell tag upon presentation of the card portion of his Kentucky deer permit for validation.

(e) Prohibited and permitted weapons: Handguns and crossbows are prohibited. Center-fire rifles of .240 caliber or larger will be permitted only during a special *three-day* [two-day] rifle hunt on specified areas. Hunting arrows must be not less than twenty-four (24) inches in length, equipped with broadhead barbless blades not less than seven-eights (7/8) inch nor more than one and one-half (1½) inches wide for single two-edged blades, or not more than three (3) inches in circumference for three (3) or more blades. The minimum weight for all broadheads is 100 grains. Explosive heads are prohibited on arrows.

(f) Hunter safety certificate: All deer hunters between the ages of twelve (12) and sixteen (16) must possess a hunter safety certificate.

(g) Special clothing requirements: All deer gun hunters must wear a cap and jacket or panels of daylight fluorescent orange totaling 500 square inches.

(h) Deer hunting information: Information on deer hunting, hunting permits and drawings may be obtained by writing the Recreation Services Division, Attention: Outdoor Recreation Branch, Hunting and Fishing Unit, Fort Campbell, Kentucky 42223, or by calling AC502-798-2175.

(3) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties:

(a) Deer archery hunt (either sex): October 6 through November 11.

(b) Deer gun hunt (either sex): December 1-2 and December 8-9.

(c) Applications: Separate applications are required for each archery and gun hunt. Applications for permits must be made by letter with enclosed fee of ten dollars and fifty cents ($10.50) per hunter by certified check or money order payable to Treasurer of United States and mailed to the Fort Knox Conservation and Beautification Committee, P.O. Box 1052, Fort Knox, Kentucky 40121. A maximum of five (5) persons per letter may apply. Applications from the general public for the deer archery hunt will be accepted no earlier than August 1 or later than August 20,

and for the gun hunt no earlier than September 6 or later than September 16. The fees of applicants not selected to hunt will be returned. All inquiries concerning the deer hunt call AC502-624-7311.

(d) Validation of state deer permit: All deer hunters taking deer on Fort Knox must have the paper portion of their Kentucky deer permit stamped at a check point or deer check station with the words "Taken at Fort Knox."

(e) Prohibited and permitted weapons: Only shotguns of twelve (12) gauge maximum and twenty (20) gauge minimum with slug ammunition only and muzzle-loading rifles of .58 caliber maximum and .38 caliber minimum firing a single projectile are permitted. Breech-loading rifles and sidearms are not permitted. Crossbows are not permitted. Longbows and compound bows must have a minimum pull weight of forty (40) pounds.

(f) Hunter safety certificate: All deer hunters under the age of sixteen (16) must possess a hunter safety certificate.

CARL E. KAYS, Commissioner
ADOPTED: March 5, 1979

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 50:010. Definitions and abbreviations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the defining of terms to be used in Title 401, Chapters 50 to 65.

Section 1. Definitions. All terms not defined herein or in subsequent regulations, shall have the meaning given them in KRS 224.005 or by commonly accepted usage. As used in the regulations of the Division of Air Pollution unless the content clearly indicates otherwise, the following words shall have the following meaning:

(1) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities which emits or may emit any air contaminant into the outdoor atmosphere.

(2) "Air contaminant or air pollutant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acid, fumes, gases, odor, vapor, or any combination thereof.

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property.

(4) "Alteration" means:

(a) The installation or replacement of air pollution control equipment at a source;

(b) Any physical change in, or change in the method of operation of any affected facility which increases the potential to emit of any pollutant (to which a standard applies) emitted by such facility or which results in the emission of any air pollutant (to which a standard applies) not previously emitted.

(5) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the department's and the U. S. Environmental Protection Agency's satisfaction to, in specific cases, produce results adequate for its determination of compliance.

(6) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(7) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures.

(8) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(9) "Compliance schedule" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard.

(10) "Construction" means fabrication, erection, [or] installation *or modification* of an air contaminant source.

(11) "Continuous monitoring system" means the total equipment, required under the applicable regulations used to sample, to condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

(12) "Department" means the Department for Natural Resources and Environmental Protection.

(13) "Director" means Director of the Division of Air Pollution of the Department for Natural Resources and Environmental Protection.

(14) "District" means an air pollution control district as provided for in KRS Chapter 77.

(15) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere (open air) from any affected facility or from air pollution control equipment installed in any affected facility.

(16) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the department's and the U. S. Environmental Protection Agency's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(17) "Existing source" means any source which is not a new source.

(18) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(19) "Fuel" means natural gas, petroleum, coal, wood, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.

(20) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(21) "Incineration" means the process of igniting and burning solid, semi-solid, liquid, or gaseous combustible wastes.

(22) "Malfunction" means any failure of air pollution control equipment, or process equipment, or of a process to operate in a normal or usual manner.

(23) "Major source" means any source of which the potential emission rate is equal to or greater than 100 tons per year of any of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds or carbon monoxide.

(24) [(23)] "Modification" means any physical change in, or change in the method of operation of an affected facility which increases the potential to emit of any air pollutant (to which a standard applies) emitted by such facility, or which results in the emission of any air pollutant (to which a standard applies) not previously emitted, except that:

(a) Routine maintenance, repair, and replacement of component parts shall not be considered physical changes;

(b) The following shall not be considered a change in the method of operation:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility, or the maximum operating capacity specified as a condition to a permit issued by the department;

2. An increase in hours of operation;

3. Use of an alternative fuel or raw material if, prior to the date any standard becomes applicable to such facility, the affected facility is designed to accommodate such alternative use.

(25) [(24)] "Monitoring device" means the total equipment, required in applicable regulations, used to measure and record (if applicable) process parameters.

(26) [(25)] "New source" means any source, the construction, reconstruction, or modification of which commenced on or after the classification date as defined in the applicable regulation. A source, upon reconstruction, becomes a new source, irrespective of any change in emission rate.

(27) [(26)] "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the department.

(28) [(27)] "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(29) [(28)] "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.

(30) [(29)] "Particulate matter" means any material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method.

(31) [(30)] "Person or persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever.

(32) [(31)] "Potential to emit" means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operations. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operations. Enforceable permit conditions on the type or amount of materials conbusted or processed may be used in determining the potential emission rate of a source.

(33) [(32)] "Reconstruction" means the replacement of components of an existing affected facility to such an extent that the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility, and it is technologically and economically feasible to meet the applicable new source standards. Individual sections of these regulations may include specific provisions which refine and delimit the concept of reconstruction set forth in this subsection. The department's determination as to whether the proposed replacement constitutes reconstruction shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(b) The estimated life of the affected facility after the replacements compared to the life of a comparable entirely new affected facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the affected facility; and

(d) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(34) [(33)] "Reference method" means any method of sampling and analyzing for an air pollutant as prescribed by Appendices A through *H* [F] to 40 CFR 50, Appendices A and B to 40 CFR 60, and Appendix B to 40 CFR 61. This term may be more narrowly defined within a specific regulation or chapter.

(35) [(34)] "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

(36) [(35)] "Shutdown" means the cessation of an operation for any purpose.

(37) [(36)] "Source" means one or more affected facilities contained within a given contiguous property line. The property shall be considered contiguous if separated only by a public thoroughfare, stream, or other right of way.

(38) [(37)] "Stack or chimney" means any flue, conduit, or duct arranged to conduct emissions to the atmosphere.

(39) [(38)] "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the regulations of the Division of Air Pollution or the emission control requirements necessary to comply with the provisions of Title 401, Chapter 51, of the regulations of the Division of Air Pollution.

(40) [(39)] "Standard conditions:"

(a) For source measurements means *twenty (20)* [21.1] degrees Celsius (*sixty-eight (68)* [seventy (70)] degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five (25) degrees Celsius and a reference pressure of 760 mm Hg.

(41) [(40)] "Startup" means the setting in operation of an affected facility for any purpose.

(42) [(41)] "Uncombined water" means water which can be separated from a compound by ordinary physical means

and which is not bound to a compound by internal molecular forces.

(43) [(42)] "Urban county" means any county which is a part of an urbanized area with a population of greater than 200,000 based upon the 1970 census. If any portion of a county is a part of such an urbanized area, then the entire county shall be classified as urban with respect to the regulations of the Division of Air Pollution.

(44) [(43)] "Urbanized area" means any area defined as such by the U. S. Department of Commerce, Bureau of Census.

Section 2. Abbreviations. The abbreviations used in the regulations of Title 401, Chapters 50 to 65, shall have the following meanings:

AOAC—Association of Offical Analytical Chemists
ANSI—American National Standards Institute
ASTM—American Society for Testing and Materials
BOD—Biochemical oxidant demand
BTU—British Thermal Unit
°C—Degree Celsius (centigrade)
Cal—calorie
cfm—Cubic feet per minute
CFR—Code of Federal Regulations
CH_4—methane
CO—Carbon monoxide
CO_2—Carbon dioxide
COD—Chemical oxidant demand
dscf—dry cubic feet at standard conditions
dscm—dry cubic meter at standard conditions
°F—Degree Fahrenheit
ft—feet
g—gram(s)
gal—gallon(s)
gr—grain(s)
hr—hour(s)
HCl—Hydrochloric acid
Hg—mercury
HF—Hydrogen fluoride
H_2O—water
H_2S—Hydrogen sulfide
H_2SO_4—Sulfuric acid
in—inch(es)
J—joule
KAR—Kentucky Administrative Regulations
kg—kilogram(s)
KRS—Kentucky Revised Statutes
l—liter(s)
lb—pound(s)
m—meter(s)
min—minute(s)
mg—milligram(s)
MJ—megajoules
MM—million
mm—millimeter(s)
mo—month
Ng—nanograms
N_2—Nitrogen
NO—Nitric oxide
NO_2—Nitrogen dioxide
NO_x—Nitrogen oxides
oz—ounce
O_2—oxygen
O_3—ozone
ppb—parts per billion
ppm—parts per million
ppm (w/w)—parts per million (weight by weight)
ug—microgram
psia—pounds per square inch absolute
psig—pounds per square inch gage
S—at standard conditions
sec—second
TAPPI—Technical Association of the Pulp and Paper Industry
SO_2—Sulfur dioxide
sq—square
TSS—Total suspended solids
yd—yard

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 50:015. Documents incorporated by reference.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the incorporation by reference of documents referred to within these regulations.

Section 1. Code of Federal Regulations. (1) The following documents from the "Code of Federal Regulations" which are in effect at the time of the effective date of this regulation, are incorporated herein by reference:

(a) 40 CFR 50:

1. Appendix A: Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).
2. Appendix B: Reference Method for the Determination of Suspended Particulates in the Atmosphere (High Volume Method).
3. Appendix C: Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Spectrometry).
4. Appendix D: Measurement Principle and Calibration Procedure for the Measurement of Photochemical Oxidants Corrected for Interferences due to Nitrogen Oxides and Sulfur Dioxide.
5. Appendix E: Reference Method for the Determination of Hydrocarbons Corrected for Methane.
6. Appendix F: Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).
7. *Appendix G: Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.*

8. Appendix H: Interpretation of the National Ambient Air Quality Standards for Ozone.

(b) 40 CFR 60:

1. Appendix A: Reference Methods:

a. Method 1—Sample and Velocity Traverses for Stationary Sources.

b. Method 2—Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube).

c. Method 3— Gas Analysis for Carbon Dioxide, Excess Air, and Dry Molecular Weight.

d. Method 4—Determination of Moisture in Stack Gases.

e. Method 5—Determination of Particulate Emissions from Stationary Sources.

f. Method 6—Determination of Sulfur Dioxide Emissions from Stationary Sources.

g. Method 7— Determination of Nitrogen Oxide Emissions from Stationary Sources.

h. Method 8—Determination of Sulfuric Acid Mist and Sulfur Dioxide Emissions from Stationary Sources.

i. Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources.

j. Method 10—Determination of Carbon Monoxide Emissions from Stationary Sources.

k. Method 11—Determination of Hydrogen Sulfide Content of Fuel Gas Streams in Petroleum Refineries.

l. Method 13A—Determination of Total Fluoride Emissions from Stationary sources—SPADNS Zirconium Lake Method.

m. Method 13B—Determination of Total Fluoride Emissions from Stationary Sources—Specific Ion Electrode Method.

n. Method 14—Determination of Fluoride Emissions from Potroom Roof Monitors of Primary Aluminum Plants.

o. Method 15—Determination of Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide Emissions from Stationary Sources.

p. Method 16—Semicontinuous Determination of Sulfur Emissions from Stationary Sources.

q. Method 17—Determination of Particulate Emissions from Stationary Sources (Instack Filtration Method).

2. Appendix B: Performance Specifications:

a. Performance Specification 1—Performance specifications and specification test procedures for transmissometer systems for continuous measurement of the opacity of stack emissions.

b. Performance Specification 2—Performance specifications and specification test procedures for monitors of sulfur dioxide and nitric oxides from stationary sources.

c. Performance Specification 3—Performance specifications and specification test procedures for monitors of carbon dioxide and oxygen from stationary sources.

(c) 40 CFR 61: Appendix B: Test Methods:

1. Method 101—Reference method for determination of particulate and gaseous mercury emissions from stationary sources (air streams).

2. Method 102—Reference method for determination of particulate and gaseous mercury emissions from stationary sources (hydrogen streams).

3. Method 103—Beryllium screening method.

4. Method 104—Reference method for determination of beryllium emissions from stationary sources.

5. Method 105—Method for determination of mercury in wastewater treatment plant sewage sludges.

6. Method 106—Determination of vinyl chloride from stationary sources.

7. Method 107—Determination of vinyl chloride of in-process wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

(2) Copies may be obtained from: Office of the Federal Register, National Archives and Records Service, 8th and Pennsylvania Avenue, NW, Washington, D.C. 20408; Phone (202) 523-5215.

Section 2. Association of Official Analytical Chemists. The following document from the Association of Official Analytical Chemists is incorporated herein by reference:

(1) Method 9—Spectrophotometric Molybdovanadophosphate from "Official Method of Analysis" of the Association of Official Analytical Chemists, 11th Edition.

(2) Copies may be obtained from: Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20014; Phone (202) 245-1191.

Section 3. American Society for Testing and Materials. The following documents from the appropriate annual "Book of ASTM Standards" from the American Society for Testing and Materials are incorporated herein by reference:

(1) ASTM Standards:

(a) A 99-66(71) Standard Specification for Ferromanganese.

(b) A 100-69(74) Standard Specification for Ferrosilicon.

(c) A 101-73 Standard Specification for Ferrochromium.

(d) A 482-66(71) Standard Specification for Ferrochrome-Silicon.

(e) A 483-64(74) Standard Specification for Silicomanganese.

(f) A 495-64(70) Standard Specification for Calcium-Silicon and Calcium-Manganese-Silicon.

(g) D 240-76 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter.

(h) D 388-66(72) Standard Specification for Classification of Coals by Rank.

(i) D 1137-53(75) Standard Method for Analysis of Natural Gases and Related Types of Gaseous Mixtures by the Mass Spectrometer.

(j) D 1475-60(74) Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products.

(k) D 1644-75 Standard Test Methods for Nonvolatile Content of Varnishes.

(l) D 1826-64(75) Standard Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter.

(m) D 1945-64(73) Standard Method for Analysis of Natural Gas by Gas Chromatography.

(n) D 1946-67(72) Standard Method for Analysis of Reformed Gas by Gas Chromatography.

(o) D 2015-66(72) Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter.

(p) D 2369-73 Standard Test Method for Volatile Content of Paints.

(q) D 3176-74 Standard Method for Ultimate Analysis of Coal and Coke.

(r) D 3178-73 Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coal and Coke.
(2) Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; Phone (215) 299-5400.

Section 4. Technical Association of the Pulp and Paper Industry. The following document from the Technical Association of the Pulp and Paper Industry (TAPPI) is incorporated herein by reference:
(1) T624 os-68—Analysis of Soda and Sulfate—White and Green Liquors. This reference is also numbered ANSI P3.6-1970 (American National Standards Institute).
(2) Copies may be obtained from: TAPPI, 1 Dunwood Park, Atlanta, Georgia 30341.

Section 5. Environmental Protection Agency. The following documents from the U. S. Environmental Protection Agency are incorporated herein by reference:
(1) (a) Guideline on Air Quality Models, EPA-450/2-78-027, OAQPS No. 1.2-080, April, 1978.
(b) Workbook for Comparison of Air Quality Models, EPA-450/2-78-028a, OAQPS No. 1.2-097, May, 1978.
(2) Copies may be obtained from: U. S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711.

Section 6. American Association of State Highway and Transportation Officials. The following document from the American Association of State Highway and Transportation Officials (AASHTO) is incorporated herein by reference:
(1) AASHTO T 59-78 Standard Method of Test for Testing Emulsified Asphalt.
(2) Copies may be obtained from: American Association of State Highway and Transportation Officials, 444 N. Capitol Avenue, Washington, D.C. 20001.

Section 7. Federal Test Method Standard. The following document from the Federal Test Standard is incorporated herein by reference:
(1) Federal Test Method Standard No. 141a, Method 4082.1, "Water in Paints and Varnishes (Karl Fischer Titration Method)."
(2) Single copies may be obtained from:
(a) General Services Administration Regional Offices; or
(b) Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

Section 8. Kentucky Division of Air Pollution. The following documents from the Kentucky Division of Air Pollution are incorporated herein by reference:
(1) (a) Kentucky Method 50: Kentucky Division of Air Pollution Control Reference Method 50, "Determination of Total Particulate Emissions from Stationary Sources."
(b) Kentucky Method 90: Kentucky Division of Air Pollution Control Reference Method 90, "Determination of Total Gaseous Organic Emissions from Stationary Sources."
(c) Kentucky Method 91: Kentucky Division of Air Pollution Control Reference Method 91, "Alternate Test Method for the Determination of Total Gaseous Organic Emissions from Stationary Sources."
(d) [(b)] Kentucky Method 95: Kentucky Division of Air Pollution Control Reference Method 95, "Determination of Gasoline Vapor Emissions from Bulk Terminals."
(e) Kentucky Method 130: Kentucky Division of Air Pollution Control Reference Method 130, "Determination of Gaseous Fluoride Emissions from Stationary Sources."
(2) Copies may be obtained from: Division of Air Pollution Control, Technical Services, Department for Natural Resources and Environmental Protection, 5th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 50:035. Permits and compliance schedules.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the issuance of permits and compliance schedules.

Section 1. Prohibitions. (1) No person shall construct, recontruct, alter, or modify a source unless a construction permit to do so has been issued by the department.
(2) No person shall use, operate, or maintain a source in contravention of any regulations of the Division of Air Pollution unless an operating permit, conditioned by an approved compliance schedule, has been issued by the department and is currently in effect.
(3) No person shall use, operate, or maintain a source, which is in compliance with all regulations of the Division of Air Pollution unless a permit to so operate has been issued by the department and is currently in effect.

Section 2. Applications. (1) Applications for permits or compliance schedules required under Section 1 of this regulation shall be made on forms prepared by the department for such purpose and shall contain such information as the department shall deem necessary to determine whether the permit or compliance schedule should be issued.
(2) Applications for permits or compliance schedules shall be signed by the corporate president or by another duly authorized agent of the corporation; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the source owner or operator; or, in the case of political subdivisions, by the highest executive official of such subdivision. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.
(3) The information submitted in the application shall, when specifically requested by the department, include an analysis of the characteristics, properties and volume of

the air contaminants based upon source or stack samples of the air contaminants taken under normal operating conditions. Failure to supply information required or deemed necessary by the department to enable it to act upon the permit or compliance schedule application shall result in denial of the permit or shall result in disapproval of the compliance schedule.

(4) An application for a permit or compliance schedule may include one or more affected facilities provided that all are contained within one (1) source. A person may apply for an amended permit to include new affected facilities provided that such new facilities are within the same source.

Section 3. Consideration of Applications. (1) (a) The department shall deny an application for a permit or compliance schedule if the department determines that emission standards, standards of performance, ambient air quality standards, *approved control measures* and the provisions of Title 401, Chapter 51, are not met or will not be met upon completion of a [the] compliance schedule.

(b) The department shall deny an application for a permit or compliance schedule if the applicant willfully makes material misstatements in the application or amendments thereto.

(c) *When required by the regulations of Title 401, Chapters 50 to 65,* the department shall base the determination of compliance with ambient air quality standards and prevention of significant air quality increments upon either:

1. Air quality models in accordance with 401 KAR 50:040; or

2. Ambient air quality monitoring in accordance with 401 KAR 53:010.

(d) In cases where no emission standards have been prescribed by regulation, the department shall require the use of all available, practical and reasonable methods to prevent and control air pollution.

(2) Compliance schedules herein shall be subject to approval of the department. If for any reason, the department and the source are unable to negotiate a mutually acceptable schedule, the department will propose a compliance schedule which will be subjected to a hearing pursuant to KRS 224.083. After considering the hearing report, the department shall issue an appropriate compliance schedule.

(3) Procedures for public participation. This subsection shall apply to the proposed construction, modification or reconstruction of a source whose uncontrolled emission potential will be 100 tons per year or more of any one (1) pollutant.

(a) *Except for applications subject to 401 KAR 51:015,* within twenty (20) days after receipt of an application to construct, reconstruct, or modify, or any addition to such application, the department shall advise the owner or operator of any deficiency in the information submitted in support of the application. *For applications subject to 401 KAR 51:015, within thirty (30) days after receipt of an application to construct, reconstruct, or modify or any addition to such application, the department shall advise the owner or operator of any deficiency in the information submitted in support of the application.* In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph*s* (b), *(e) and (f)* of this subsection shall be the date on which [all required information is received by] the department *makes a determination that the application is complete.*

(b) Within thirty (30) days after the receipt of a complete application[, or within one (1) year for sources subject to 401 KAR 51:015], the department shall:

1. Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

2. Make available in at least one (1) location in each region in which the proposed source would be constructed, reconstructed, or modified, a copy of all materials submitted by the owner or operator, a copy of the department's preliminary determination and a copy or summary of other materials, if any, considered by the department in making the preliminary determination; and

3. For sources subject to 401 KAR 51:015, notify the public, by prominent advertisement in newspapers of general circulation in each region in which the proposed source would be situated, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification if applicable, and of the opportunity to comment in writing and of the opportunity to request a public hearing to receive written or oral comments. The cost of such advertisement shall be borne by the applicant.

4. For all other sources subject to this subsection, notify the public, by prominent advertisement in newspapers of general circulation in each region in which the proposed source would be situated, of the application, the preliminary determination, and of the opportunity to comment in writing. *The cost of such advertisement shall be borne by the applicant.*

(c) A copy of the notice required pursuant to this section shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: the Administrator of the U. S. Environmental Protection Agency through the appropriate regional office; local air pollution control agencies; the chief executive of the city and county; any comprehensive regional land use planning agency; and any state, federal land manager or Indian governing body whose land may be affected by the emissions from the proposed source.

(d) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the department in its final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The department shall consider the applicant's response in making its final decision. All comments shall be made available for public inspection at the same location in the region at which the department made available preconstruction information relating to the proposed source.

(e) The department shall take final action on an application *subject to this subsection by notifying* [within thirty (30) days after the close of the public comment period. The department shall notify] the applicant in writing of its approval, conditional approval, or denial of the application, and shall set forth its reasons for conditional approval or denial. Such notification shall be made available for public inspection at the location in the region at which the department made available preconstruction information relating to the proposed source or modification.

1. For sources subject to 401 KAR 51:015 and for which a public hearing has been requested and held, the department shall take final action within 150 days after receipt of a complete application.

2. For all other sources subject to this subsection, the department shall take final action within ninety (90) days

after receipt of a complete application.

(f) The department may extend each of the time periods specified in paragraphs (b), (d) or (e) of this subsection by no more than thirty (30) days or such other period as agreed to by the applicant and the department *deems necessary. In accordance with Federal Regulation 40 CFR 52.21(r), the department shall in no case exceed one (1) year from the date of receipt of a complete application for taking final action on an application subject to 401 KAR 51:015.*

(4) This subsection shall apply to the proposed construction, modification, alteration or reconstruction of a source whose uncontrolled emission potential will be less than 100 tons per year of all pollutants considered severally.

(a) Within ten (10) days after receipt of an application to construct, reconstruct, modify, or alter, or any addition to such application, the department shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) of this subsection shall be the date on which the department makes a determination that the application is complete.

(b) Within thirty (30) days after receipt of a complete application the department shall notify the applicant, in writing of its approval, conditional approval, or denial of the application, and shall set forth its reasons for conditional approval or denial.

(c) The department may extend the time period specified in paragraph (b) of this subsection by no more than thirty (30) days or such other period as the department deems necessary.

Section 4. Permits and Compliance Schedules. (1) Permits and compliance schedules issued hereunder shall be subject to such terms and conditions set forth and embodied in the permit or compliance schedule as the department shall deem necessary to insure compliance with its standards. Such terms and conditions may include maintenance and availability of records relating to operations which may cause or contribute to air pollution including periodic source or stack sampling of the affected facilities.

(2) In the case of transfer of ownership of a source, the new owner shall abide by any current compliance schedule or permit issued to the previous owner by the department. The new owner shall notify the department of the change in ownership within ten (10) days of the change in ownership.

Section 5. Exemptions. The provisions of this regulation shall not apply to the following affected facilities:

(1) Those affected facilities to which no standard is applicable or which emit an air pollutant to which no standard applies.

(2) Incinerator with a charging rate of less than 500 pounds per hour.

(3) Internal combustion engines whether fixed or mobile, and vehicles used for transport of passenger or freight.

(4) Direct fired sources used for heating and ventilating.

(5) Those sources as set forth in 401 KAR 63:005.

(6) Indirect heat exchangers at a source with a total capacity of less than fifty (50) million BTU per hour input which use natural gas, liquid petroleum gas, or distillate fuel oil as a main fuel or combinations of these as main and standby fuel.

(7) Publicly owned roads.

(8) Feed grain mill with a rated capacity of less than ten (10) tons per hour.

Section 6. Source Obligation. (1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this regulation who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action as provided under KRS 224.994.

(2) Approval to construct shall become invalid if construction is not commenced within twelve (12) months after receipt of such approval, if construction is discontinued for a period of six (6) months or more, or if construction is not completed within a reasonable time. The department may extend the twelve (12) month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within twelve (12) months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the requirements of the department and any other requirements under local, state, or federal law.

EUGENE F. MOONEY, Secretary
ADOPTED: June 5, 1979
RECEIVED BY LRC: June 6, 1979 at 10:20 a.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 50:040. Air quality models.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation specifies general provisions for the use of air quality models.

Section 1. Air Quality Models. (1) All estimates of ambient concentrations required under the regulations of the Division of Air Pollution shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guidelines on Air Quality Models" (OAQPS 1.2-08[3]0, U. S. Environmental Protection Agency, Office of Air Quality Planning and Standards).

(2) Where an air quality impact model specified in the Guideline on Air Quality Models is inappropriate, the

model may be modified or another model substituted subject to the approval of the department.

(3) If the source is subject to 401 KAR 51:015, a substitution or modification of a model shall be subject to public comment procedures in accordance with 401 KAR 50:035, Section 3(3), and such substitution or modification of a model must be approved in writing by the department and the U. S. Environmental Protection Agency.

(4) Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U. S. Environmental Protection Agency, Office of Air Quality Planning and Standards) shall be used to determine the comparability of air quality models.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 50:055. General compliance requirements.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation establishes requirements for compliance during shutdown and malfunctions; establishes requirements for demonstrating compliance with standards; establishes requirements for compliance when a source is relocated within the Commonwealth of Kentucky; and other general compliance requirements.

Section 1. Emissions During Shutdown and Malfunction. (1) Emissions which, due to shutdown or malfunctions, temporarily exceed the standard set forth by the department shall be deemed in violation of such standards unless the requirements of this section are satisfied and the determinations specified in subsection (4) of this section are made.

(2) When emissions during any planned shutdown and ensuing startup will exceed the standards, the owner or operator of the source shall notify the director or his designee no later than three (3) days before the planned shutdown. However, if the shutdown is necessitated by events which the owner or operator could not reasonably have foreseen three (3) days before the shutdown, then such notification shall be given immediately following the decision to shutdown. The notice shall be in writing and shall specify the name of the air contaminant source, its location, the address and telephone number of the person responsible for the source, the reasons for and duration of the proposed shutdown, the date and time for the action, the physical and chemical composition, rate and concentration of the emissions during such shutdown and ensuing startup, the basis for determination that such shutdown is necessary, and the measures which will be taken to minimize the extent and duration of the emissions during such shutdown and ensuing startup.

(3) When emissions due to malfunctions, unplanned shutdowns or ensuing startups are or may be in excess of the standards, the owner or operator shall notify the director by telephone as promptly as possible, and shall cause written notice when requested by the director to be sent to the director. Such notice shall specify the name of the source, its location, the address and telephone number of the person responsible for the source, the nature and cause of the malfunctions, or unplanned shutdown, the date and time when the malfunction was first observed, the expected duration, the nature of the action to be taken to correct the malfunction, and an estimate of the physical and chemical composition, rate and concentration of the emission.

(4) A source shall be relieved from compliance with the standards set forth by the department if the director determines, upon a showing by the owner or operator of the source, that:

(a) The malfunction or shutdown and ensuing startup did not result from the failure by the owner or operator of the source to operate and maintain properly the equipment;

(b) All reasonable steps were taken to correct, as expeditiously as practicable, the conditions causing the emissions to exceed the standards, including the use of off-shift labor and overtime if necessary;

(c) All reasonable steps were taken to minimize the emissions and their effect on air quality resulting from the occurrence;

(d) The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(e) The malfunction or shutdown and ensuing startup was not caused entirely or in part by poor maintenance, careless operation or any other preventable upset conditions or equipment breakdown.

(5) The director shall notify the owner or operator of the source of the determination made under this section no later than sixty (60) days after the date that all information required by this section has been submitted.

Section 2. Compliance with Standards and Maintenance Requirements. (1) An owner or operator of any affected facility subject to any standard within the regulations of the Division of Air Pollution shall:

(a) In the case of a new source, demonstrate compliance with the applicable standard(s) within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility;

(b) In the case of any existing source, demonstrate compliance with the applicable standard before or on the date that final compliance is required by the applicable compliance schedule unless otherwise specified by regulation; and

(c) Maintain the affected facility in compliance with all applicable standards at all times subsequent to the date that compliance is demonstrated.

(2) Compliance with standards in the regulations of the Divison of Air Pollution shall be demonstrated as follows:

(a) By performance tests as specified in the applicable regulation and according to the requirements and excep-

tions provided in 401 KAR 50:045.

(b) By methods other than performance tests as provided for by the applicable regulation.

(c) By methods acceptable to the department if the applicable regulation does not specify a performance test or other method of determining compliance.

(3) Compliance with opacity standards in the regulations of the Division of Air Pollution shall be determined by Method 9 of Appendix A of 40 CFR 60, filed by reference in 401 KAR 50:015, except as may be provided for by regulation for a specific category of sources. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation), performance specification as required by the department, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

(4) The opacity standards set forth in this regulation shall apply at all times except during periods of startup, shutdown, and as otherwise provided in the applicable standard.

(5) At all times, including periods of startup, shutdown and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the department which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(6) Adjustment of opacity standards:

(a) An owner or operator of an affected facility may request the department to determine opacity of emissions from the affected facility during the initial performance tests.

(b) Upon receipt from such owner or operator of the written report of the results of the performance tests, the department will make a finding concerning compliance with opacity and other applicable standards. If the department finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted, but during the time such performance tests are being conducted fails to meet any applicable opacity standard, the department shall notify the owner or operator and advise him that he may petition the department within ten (10) days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

(c) The department will grant such a petition upon a demonstration by the owner or operator that the affected facility and associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by the department; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

(d) The department will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard.

Section 3. Shutdown and Relocation. (1) Any affected facility commencing operations after a shutdown for six (6) months shall demonstrate compliance with the applicable standard(s) within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after commencing operations.

(2) Any source located within the Commonwealth of Kentucky and moved to another location involving a change of address shall be subject to applicable regulations at the new location or to regulations which were applicable at the original location, whichever is the more stringent.

Section 4. Circumvention. No owner or operator subject to the provisions of the regulations of the Division of Air Pollution shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

Section 5. Prohibition of Air Pollution. No person shall permit or cause air pollution as defined in 401 KAR 50:010 in violation of regulations promulgated by the department.

Section 6. Alternative Emission Reduction Options. (1) Applicability:

(a) The provisions of this section shall apply to all affected facilities within a source emitting the same or comparable pollutants which commenced before the classification date defined below and:

1. Are in compliance with all applicable emission limitations or on schedule with an order containing a plan and timetable for compliance issued by the department and approved by the U.S. Environmental Protection Agency;

2. Are subject to a court decree in an action in which the U.S. Environmental Protection Agency was a party or which decree the U.S. Environmental Protection Agency has found to be satisfactory and such decree contains a schedule for compliance and allows for timely modification of the decree without delay in the final compliance date; or

3. Are required to meet a compliance timetable contained in a regulation in Title 401, Chapter 61.

(b) The provisions of this section shall not apply to affected facilities which:

1. Are subject to standards under Title 401, Chapter 57 or 401 KAR 63:020;

2. Are subject to standards of performance under 401 KAR 63:010, unless such fugitive emissions have been accurately quantified and their air quality impact predicted by methods approved by the department;

3. Are subject to federal new source performance standards pursuant under 40 CFR 60;

4. Are subject to standards established pursuant to either Title 401, Chapter 51, or standards established pursuant to 40 CFR 52.21 or 40 CFR 51 Appendix S; or

5. Emit or may emit fugitive soil.

(2) Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(a) "Classification date" means the effective date of this regulation.

(b) "Fugitive soil" means particulate matter composed of soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive soil may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles, and other activities in which soil is either removed, stored, transported, or redistributed.

(c) "Permanent," as applied to shutdown of affected facilities subject to Title 401, Chapters 59 and 61, means a period of five (5) years from shutdown for complying and eighteen (18) months from shutdown for non-complying affected facilities.

(3) Method for determining allowable emission rate:

(a) A source may petition the department to establish an allowable emission rate for each pollutant subject to standards of performance under Title 401, Chapters 59 and 61 except as provided in subsection (1)(b) of this section. This source allowable emission rate may be apportioned to the affected facilities at the source subject to regulation for that pollutant without regard to the individual pollutant emission rate allowed each affected facility under Title 401, Chapters 59 and 61, provided that the conditions specified in paragraph (b) 1, 2, and 3 of this subsection are met. Such source allowable emission rate shall be determined according to the formula given in Appendix A to this regulation.

(b) The source emission rate determined in paragraph (a) of this subsection may be apportioned among the affected facilities included in the procedure subject to the following demonstrations by the source owner or operator:

1. The applicable ambient air quality standards contained in Title 401, Chapter 53, shall be attained and maintained after the apportioning of emissions among the affected facilities. Air quality models and procedures specified in 401 KAR 50:040 shall be used, as applicable.

2. The ambient air quality resulting from the use of the apportioned emissions shall be equal to or better than the ambient air quality which would have resulted through compliance of each affected facility with its individual emission limitation as contained in Title 401, Chapters 59 and 61. Air quality models and procedures specified in 401 KAR 50:040 shall be used as applicable.

3. The allowable emission rate apportioned to any new or modified affected facility commenced on or after the classification date of an applicable standard of performance contained in Title 401, Chapter 59, shall not exceed the emission rate allowed that new or modified affected facility in that standard of performance.

(c) Subsequent to a successful demonstration that the requirements of paragraph (b) of this subsection have been fully met, the source owner or operator may petition the department to designate the individual apportioned emission rate as the alternate emission limitation for each affected facility under the requirements of the department. Such designation shall be in accordance with the procedures contained in subsection (5) of this section.

(d) At no time subsequent to the designation of the alternate emission limitations by the department, shall the owner or operator of the source allow the total emissions (in pounds of effluent per hour) from all affected facilities included in the calculation of paragraph (a) of this subsection to exceed the source allowable emission rate established under paragraph (a) of this subsection.

(e) At no time subsequent to the apportioning of emissions shall any individual affected facility within the source exceed the alternate emission limitation established for it under paragraph (c) of this subsection.

(4) Monitoring and testing:

(a) The department shall require such recordkeeping, monitoring of operations, continuous emissions and/or ambient monitoring as may be necessary to demonstrate to the satisfaction of the department that the requirements of subsection (3)(d) and (e) of this section shall and will be met under actual conditions of operation of the source.

(b) The department may require that each individual affected facility assigned an alternate emissions limitation under subsection (3)(c) of this section demonstrate compliance with the applicable alternate emission limitation through performance tests. Such tests shall be conducted using reference methods and procedures prescribed for that particular affected facility under the standard of performance applicable to it in Title 401, Chapters 59 and 61.

(5) Enforcement:

(a) The source emission rate established under subsection (3)(a) of this section, the alternate affected facility emission limitation established under subsection (3)(c) of this section, and all applicable recordkeeping, monitoring and testing requirements under subsection (4) of this section shall be identified as conditions of an order or a permit issued by the department subject to prior written approval of the order or permit by the U.S. Environmental Protection Agency.

(b) The order or permit issued by the department under paragraph (a) of this subsection shall be null and void on permanent shutdown of any affected facility for which an alternate emission limitation has been established by the department under subsection (3) of this section.

(c) Final compliance dates contained in any order or permit issued pursuant to paragraph (a) of this subsection shall provide for the most expeditious compliance with the alternate emissions limitations contained in the order or permit, as applicable. In no case shall the final compliance date for any affected facility identified in the order or permit exceed the final compliance date for that affected facility under the applicable standard of performance contained in Title 401, Chapters 59 and 61, or under an order previously issued to the source by the department.

(d) Failure of a source owner or operator to comply with the conditions of the order or permit issued pursuant to paragraph (a) of this subsection shall subject the owner or operator to any or all enforcement actions provided for under 401 KAR 50:060.

Section 7. [6.] 401 KAR 3:010 is hereby repealed.

APPENDIX A TO 401 KAR 50:055

Determination of source allowable emission rate

$$F = \sum_{i=1}^{N} E_i$$

Where:

F = source allowable emission rate in pounds per hour of a particular pollutant.

E_i = allowable emission rate contained in applicable standard of performance for the ith process or affected

facility in pounds of that pollutant per hour at rated capacity.

N = total number of processes, operations, or affected facilities for which individual emission limitations apply pursuant to Title 401, Chapters 59 and 61 for the same or comparable pollutant.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 50:060. Enforcement.

RELATES TO: KRS 224.033(5), (18), (19), (22), (23), (26), 224.081, 224.083, 224.330
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for enforcement of the terms and conditions of permits and compliance schedules.

Section 1. Permits and Compliance Schedules Subject to Conditions. Permits and compliance schedules issued under these regulations shall be subject to such terms and conditions set forth in the permit or compliance schedule as the department may deem necessary to insure compliance with all applicable standards. Such terms and conditions may include, but shall not be limited to, the maintenance and production for inspection of records relating to operation which may cause or contribute to air pollution including periodic source or stack sampling, or periodic ambient air monitoring.

Section 2. Permit Revocation. The department may revoke any permit issued under these regulations if the permittee:

(1) Willfully makes material misstatements in the permit application or any amendments thereto;

(2) Fails to comply with the terms or conditions of the permit;

(3) Fails to comply with any emission standards applicable to an affected facility included in the permit;

(4) Causes emissions from the source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standards contained in Title 401, Chapter 53, of these regulations or result in *an exceedance of* any allowable increase over baseline concentrations contained in Title 401, Chapter 51, of these regulations;

(5) Fails to report construction, modification, alteration, or reconstruction of an affected facility.

Section 3. Compliance Schedule Revocation. The department may revoke a compliance schedule issued under these regulations if the owner or operator of the source or any other person acting on his behalf:

(1) Willfully makes material misstatements in the application for the compliance schedule or in any communications relied upon by the department in issuing the compliance schedule;

(2) Fails to comply with the terms and conditions of the compliance schedule, including but not limited to any increment dates and any interim emission standards;

(3) Fails to report construction, modification, alteration or reconstruction of the affected facilities.

Section 4. Suspensions, Modifications, Violation of Regulations Subject to Penalties. (1) The grounds for revocation of permits and compliance schedules listed in Sections 2 and 3 are declared to be violations of these regulations and are subject to the penalties and all other relief contained in KRS 224.994.

(2) The department may order appropriate modifications to any permit or compliance schedule whenever it appears that the conditions of the permit or compliance schedule will not be sufficient to meet all of the standards and requirements contained in these regulations, including but not limited to Title 401, Chapters 51, 57, 59 and 61.

(3) The department may suspend under such conditions and for such period of time as the department may prescribe any permit or compliance schedule for any of the grounds for revocation contained in Sections 2 and 3 of this regulation or for any other violations of these regulations.

Section 5. Administrative Hearing Procedures. (1) Whenever the department has reason to believe that a violation of any of the provisions of KRS Chapter 224 or these regulations has occurred it shall issue and serve upon the person complained against a written notice of the provision of KRS Chapter 224 or the rule or regulation alleged to have been violated and the facts alleged to constitute the violation thereof and shall require the person so complained against to answer the charges set out in the notice at a hearing before the department. Nothing herein shall prevent the department from seeking all appropriate relief in circuit court.

(2) Any person not previously heard in connection with the issuance of any order or the making of any determination, including but not limited to the issuance, denial, modification, or revocation of any permit, by which he considers himself aggrieved may file with the department a petition alleging that such order or determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. Unless the department considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the department. The right to demand such a hearing shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or determination, or could reasonably have had such notice.

(3) The department shall schedule a hearing before the department not less than twenty-one (21) days after notice of such a hearing is served upon the parties, unless the person complained against waives in writing the twenty-one (21) day period. The notice of hearing shall include a statement of the time, place, and nature of the hearing; the legal authority for the hearing; reference to the statutes and

regulations involved; and a short statement of the reason for the granting of the hearing.

(4) Prior to the formal hearing, and upon seven (7) days written notice to all parties, delivered personally or by certified mail, return receipt requested, the hearing officer may hold a pre-hearing conference to consider simplification of the issues, admissions of fact and documents which will avoid unnecessary proof, limitations of the number of witnesses and such other matters as will aid in the disposition of the matter. Disposition of the matter may be made at the pre-hearing conference by stipulation, agreed settlement, consent order, or default for non-appearance.

(5) (a) Any party to a hearing may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. A hearing officer shall preside at the hearing, shall keep order, and shall conduct the hearing in accordance with reasonable administrative practice.

(b) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(c) It will be within the hearing officer's discretion to require official transcripts or to set up other procedures for taking evidence including but not limited to the use of mechanical recording devices for recording the testimony. The record of such hearing, consisting of all pleadings, motions, rulings, documentary and physical evidence received or considered, a statement of matters officially noticed, questions and offers of proof, objections and rulings thereon, proposed findings and recommended order, and legal briefs, shall be open to public inspection and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original except as provided in KRS 224.035. The department may cause the mechanical recording of the testimony to be transcribed. When certified as true and correct copy of the testimony by the hearing officer, the transcript shall constitute the official transcript of the evidence.

(d) The hearing officer shall within thirty (30) days of the closing of the hearing record make a report and a recommended order to the secretary. The order shall contain the appropriate findings of fact and conclusions of law. If the secretary finds upon written request of the hearing officer that additional time is needed, then the secretary may grant a reasonable extension. The hearing officer shall serve a copy of his report and recommended order upon all parties. The parties may file within seven (7) days of service of the hearing officer's report and recommended order exceptions to the recommended order. The secretary shall consider the report and recommended order and exceptions. The secretary may remand to the hearing officer the matter for further deliberation, adopt the opinion of the hearing officer as the department's or issue his own written order based on the report and recommended order. The secretary shall act within twenty (20) days of the deadline for filing exceptions, unless extensions of time have been granted to the hearing officer, pursuant to paragraph (e) of this subsection.

(e) After completion of the hearing and filing of exceptions, the department shall notify the parties in writing, certified mail, return receipt requested, of the final decision of the department. If any extension of time is granted by the secretary for a hearing officer to complete his report, the department shall notify all parties at the time of the granting of the extension. Parties shall have seven (7) days to file exceptions to the report and recommended order if such an extension is granted.

(f) The secretary shall not grant extensions of time to the hearing officer for more than thirty (30) days for any one extension, and no more than two (2) such extensions shall be granted.

(g) A final order of the department shall be based on the preponderance of the evidence appearing in the record as a whole and shall set forth the decision of the department and the facts and law upon which the decision is based.

(h) There shall be no ex-parte communications between a hearing officer and parties to the action.

(i) Any person aggrieved by a final order of the department may have recourse to the courts as set forth in KRS 224.085.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 51:010. Attainment status designations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.

Section 1. Attainment Status Designations. *(1)* The attainment status of areas of the Commonwealth of Ken-

tucky with respect to the ambient air quality standards for particulates, sulfur dioxide, carbon monoxide, ozone and nitrogen oxides are as listed in Appendices A through E of this regulation.

(2) Within sixty (60) days of revision by the U.S. Environmental Protection Agency of a national ambient air quality standard, the department shall review applicable data and submit to the U.S. Environmental Protection Agency a revision to the attainment—non-attainment list pursuant to Section 107(d)(1) of the Clean Air Act.

Section 2. Attainment Timetable. Primary and secondary ambient air quality standards shall be *attained as expeditiously as practicable, however, primary ambient air quality standards shall be attained* [achieved] no later than December 31, 1982 in non-attainment areas with respect to the pollutants for which the area is non-attainment. The above date shall be extended to December 31, 1987 for ozone and carbon monoxide for those areas granted such an extension by the U. S. Environmental Protection Agency.

APPENDIX A TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR TOTAL SUSPENDED PARTICULATES

Designated Areas	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Better Than Standards
Bell County	X	X	
Boyd County	X	X	
That portion of Bullitt Co. In Shepherdsville	X	X	
That portion of Campbell Co. in Newport	X	X	
That portion of Daviess Co. in Owensboro	X	X	
That portion of Henderson Co. in Henderson	X	X	
Jefferson County	X	X	
That portion of Lawrence Co. in Louisa	X	X	
McCracken County	X	X	
Marshall County		X	
That portion of Madison Co. in Richmond	X	X	
Muhlenberg County	X	X	
That portion of Perry Co. in Hazard	X	X	
That portion of Pike Co. in Pikeville	X	X	
That portion of Whitley Co. in Corbin	X	X	
Rest of State			X

APPENDIX B TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR SULFUR DIOXIDE

Designated Areas	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Better Than Standards
That portion of Boyd County *south of the Northern UTM line 4251 Km*	X	*X*	
That portion of Daviess Co. in Owensboro	X	X	
Greenup County	[X]	[X]	*X*
That portion of Henderson Co. in Henderson	X		
Jefferson County	X	X	
McCracken County	X		
Muhlenberg County	X	X	
Webster County	X	X	
Rest of State			X

APPENDIX C TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR CARBON MONOXIDE

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than Standards
Jefferson County	X	
Rest of State		X

APPENDIX D TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR OZONE

Designated Area	Does Not Meet Primary Standards	[Cannot be Classified or] Better Than Standards	*Cannot Be Classified*
Boone County	X		
Boyd County	X		
Campbell County	X		
Daviess County	[X]	*X*	
Fayette County	X		
Henderson County	X		
Jefferson County	X		
Kenton County	X		
McCracken County	[X]	*X*	
[Boyd County	X]		
Rest of State		[X]	*X*

APPENDIX E TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR NITROGEN OXIDES

Designated Area	Does Not Meet Primary Standards	Cannot Be Classifed or Better Than Standards
Statewide		X

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 51:015. Prevention of significant deterioration of ambient air quality.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the prevention of significant deterioration of ambient air quality.

Section 1. Applicability. The provisions of this regulation are applicable to major stationary sources or major modifications which:

(1) Are constructed on or after the classification date defined below;

(2) Emit any air pollutant regulated under the Clean Air Act; and

(3) Impact on any area, including land owned by the federal government, which is an attainment or unclassified area according to 401 KAR 51:010 with respect to the pollutant emitted (or with respect to ozone for sources of VOC).

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Major stationary source" means:

(a) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year or more of any air pollutant specified in Section 1: Fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants; and

(b) Notwithstanding the source sizes specified in paragraph (a) of this subsection, any source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant specified in Section 1.

(2) "Major modification" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any air pollutant regulated under Section 1 (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source since the classification date of this regulation, or since the time of the last construction approval issued for the source pursuant to regulations approved under this chapter, whichever time is more recent, regardless of any emission reductions achieved elsewhere in the source) by either 100 tons per year or more for any source category identified in subsection (1)(a) of this section, or by 250 tons per year or more for any stationary source.

(a) A physical change shall not include routine maintenance, repair and replacement [of component parts].

(b) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the source;
2. An increase in the hours of operation;
3. Use of an alternative fuel or raw material by reason of an order, rule or natural gas curtailment plan in effect under a federal statute or regulation;
4. Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material; or
5. Change in ownership of the source.

(3) "Potential to emit" means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

(4) "Fugitive soil" means particulate matter composed of soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive soil may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles, and other activities in which soil is either removed, stored, transported, or redistributed.

(5) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

(6) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and those under the Kentucky Environmental Protection Law and the regulations duly promulgated pursuant to it that have been approved by the U. S. Environmental Protection Agency.

(7) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under Section 1 which would be emitted from any proposed major stationary source or major

modification which the department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by federal new source performance standards *or* [,] federal emissions standards for hazardous air pollutants [, or standards of performance contained in Chapter 59 of these regulations]. If the department determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operational standard and shall provide for compliance by means which achieve equivalent results.

(8) "Baseline concentration" means that ambient concentration level reflecting actual air quality as of the classification date of this regulation minus any contribution from major stationary sources and major modifications on which construction commenced on or after January 6, 1975. The baseline concentration shall include contributions from:

(a) The actual emissions of other sources in existence on the classification date of this regulation; and

(b) The allowable emissions of major stationary sources and major modifications which commenced construction before January 6, 1975, but were not in operation by the classification date of this regulation.

(9) "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

(10) "High terrain" means any area having an elevation of 900 feet or more above the base of the stack of an affected facility.

(11) "Low terrain" means any area other than high terrain.

(12) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(a) Applicable standards as set forth by the U.S. Environmental Protection Agency for new or modified sources and for hazardous air pollutants.

(b) The applicable emission limitation required by the department.

(c) The emission rate specified as a permit condition.

(13) "Reconstruction" shall be as defined in 401 KAR 50:010. A reconstructed source shall be treated as a new source for purposes of this regulation except that the use of an alternative fuel or raw material by reason of an order, rule or natural gas curtailment plan under a federal statute or regulation shall not result in the source being considered reconstructed.

(14) "Classification date" means August 7, 1977.

(15) "Volatile organic compounds (VOC)" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm of Hg at conditions of twenty (20) degrees Celsius and 760 mm of Hg.

(16) "Source" means any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one (1) or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

Section 3. Ambient Air Increments. In areas designated as Class I, II, or III in Section 5, increases in pollutant concentration over the baseline concentration shall be limited to the levels specified in Appendix A to this regulation.

Section 4. Ambient Air Ceilings. No concentration of a pollutant specified in Section 1 shall exceed:

(1) The concentration permitted under the secondary ambient air quality standard; or

(2) The concentration permitted under the primary ambient air quality standard, whichever concentration is lower for the pollutant for a period of exposure.

Section 5. Area Designations. (1) Mammoth Cave National Park shall be a Class I area and may not be redesignated.

(2) All other areas, unless otherwise specified in the legislation creating such an area, are designated Class II but may be redesignated as provided in Section 7 subject to the restrictions of subsection (3) of this section.

(3) The following areas may be redesignated only as Class I or II:

(a) An area which as of the classification date of this regulation, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore; and

(b) A national park or national wilderness area established after the classification date of this regulation, which exceeds 10,000 acres in size.

Section 6. Exclusions from Increment Consumption. (1) The department may, after notice and opportunity for at least one (1) public hearing in accordance with the procedures established in 401 KAR 50:035, Section 3, exclude the following concentrations in determining compliance with a maximum allowable increase:

(a) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order or plan in effect under a federal statute or regulation over the emissions from such sources before the effective date of such an order or plan;

(b) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities; and

(2) No exclusion of such concentrations shall apply more than five (5) years after the effective date of the order or plan to which subsection (1)(a) of this section refers. If both such order and plan are applicable, no such exclusion shall apply more than five (5) years after the later of such effective dates.

Section 7. Redesignation. (1) Redesignation of an area (except as otherwise precluded by Section 5) may be proposed by the department, as provided below, subject to approval by the U.S. Environmental Protection Agency.

(2) The department may submit to the U.S. En-

vironmental Protection Agency a proposal to redesignate areas of the Commonwealth of Kentucky Class I or Class II, provided, that:

(a) At least one (1) public hearing has been held in accordance with procedures established in 401 KAR 50:035, Section 3;

(b) Other states and federal land managers whose lands may be affected by the proposed redesignation were notified at least thirty (30) days prior to the public hearing;

(c) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least thirty (30) days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(d) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the department has provided written notice to the appropriate federal land manager and afforded adequate opportunity (not in excess of sixty (60) days) to confer with the department respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any federal land manager had submitted written comments and recommendations, the department shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the federal land manager); and

(e) The department has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(3) Any area, except as restricted by Section 5, may be redesignated as Class III if:

(a) The redesignation would meet the requirements of provisions established in accordance with Section 7(2);

(b) The redesignation has been specifically approved by the Governor of the Commonwealth of Kentucky, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session, and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation (including resolutions where appropriate) concurring in the redesignation;

(c) The redesignation would not cause or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any ambient air quality standard; and

(d) Any permit application for any new major stationary source or major modification subject to provisions established in accordance with Section 12 which could receive a permit only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available, insofar as was practicable, for public inspection prior to any public hearing on redesignation of any area as Class III.

(4) The U. S. Environmental Protection Agency shall disapprove, within ninety (90) days of submission, a proposed redesignation of any area only if it finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this regulation or is inconsistent with Section 5. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(5) If the U. S. Environmental Protection Agency disapproves any proposed area designation, the department may resubmit the proposal after correcting the deficiencies noted by the U. S. Environmental Protection Agency.

Section 8. Stack Heights. (1) As a minimum, the degree of emission limitation required for control of any air pollutant shall not be affected in any manner by:

(a) So much of a stack height as exceeds good engineering practice; or

(b) Any other dispersion technique.

(2) Subsection (1) of this section shall not apply with respect to stack heights in existence before December 31, 1970 or to dispersion techniques implemented before then.

Section 9. Review of New Major Stationary Sources and Major Modifications; Source Applicability and General Exemptions. (1) No new major stationary source or major modification shall be constructed unless, as a minimum, requirements contained in Sections 10, 12, 14, 16, [and] 18 *and 401 KAR 50:035* have been met. Such requirements shall apply to a proposed new source or modification only with respect to those pollutants for which the proposed construction would be a major stationary source or major modification.

(2) The requirements of Sections 10 to 18 shall not apply to a new major stationary source or major modification that was subject to the review requirements of federal regulations for the prevention of significant deterioration as in effect before March 1, 1978, if the owner or operator:

(a) Obtained under the federal regulations for the prevention of significant deterioration a final approval effective before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of eighteen (18) months or more and completed construction within a reasonable time.

(3) The requirements of Sections 10 to 18 shall not apply to a new major stationary source or major modification that was not subject to federal regulations for the prevention of significant deterioration as in effect before March 1, 1978, if the owner or operator:

(a) Obtained all final preconstruction permits necessary under the requirements of the department before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of eighteen (18) months or more and completed construction within a reasonable time.

(4) As a minimum, requirements contained in Sections 10, 12, 14 and 16 shall not apply to a new major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that:

(a) As to that pollutant, the source or modification is subject to 401 KAR 51:050; and

(b) The source or modification would impact no area attaining the ambient air quality standards (either internal or external to areas designated as non-attainment under 401 KAR 51:010).

(5) Requirements contained in Sections 10, 12, 14, 16 and 18 shall not apply to non-profit health or education institutions.

(6) A portable facility which has received construction approval under requirements contained in Sections 10, 12, 14, 16, 17 and 18 may relocate without being subject to such requirements if:

(a) Emissions from the facility would not exceed allowable emissions;

(b) Such relocation would impact no Class I area and no area where an applicable increment is known to be violated; and

(c) Notice is given to the department at least thirty (30) days prior to such relocation identifying the proposed new location and the probable duration of operation at such location.

Section 10. Control Technology Review. (1) A new major stationary source or major modification shall meet all applicable emission limitations required by the department and all applicable standards of performance required by the U. S. Environmental Protection Agency for new (or modified) sources or for emissions of hazardous air pollutants.

(2) A new major stationary source or major modification shall apply best available control technology for each applicable pollutant, unless the increase in allowable emissions of that pollutant from the source would be less than fifty (50) tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive.

(a) The preceding hourly or daily rates shall apply only with respect to a pollutant for which an increment or ambient air quality standard, for a period less than twenty-four (24) hours or a period of twenty-four (24) hours as appropriate, has been established.

(b) In determining whether and to what extent a modification would increase allowable emissions, there shall be taken into account no emission reductions achieved elsewhere at the source at which the modification would occur.

(3) In the case of a modification, the requirement for best available control technology shall apply only to each new or modified affected facility which would increase the allowable emissions of an applicable pollutant.

(4) Where an affected facility within a source would be modified but not reconstructed, the requirement for best available control technology, notwithstanding subsection (2) of this section, shall not apply if no net increase in emissions of an applicable pollutant would occur at the source, taking into account all emission increases and decreases at the source which would accompany the modification, and no adverse air quality impact would occur.

(5) For phased construction projects the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

(6) In the case of a new major stationary source or major modification which the owner or operator proposes to construct in a Class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase that would be applicable if the area were a Class II area and where no standard of performance for new or modified sources has been promulgated for the source category by the U. S. Environmental Protection Agency, the department and the U. S. Environmental Protection Agency shall approve the determination of best available control technology.

Section 11. Exemptions from Impact Analysis. (1) With respect to a particular pollutant the requirements of Sections 12, 14 and 16 shall not apply to a proposed new major stationary source or major modification, if:

(a) The increase in allowable emissions of that pollutant from the source or modification would impact no Class I area and no area where an applicable increment is known to be violated; and

(b) The increase in allowable emissions of that pollutant from the source or modification would be less than fifty (50) tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive; or

(c) The emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; or

(d) A source is modified, but no increase in the net amount of emissions for any pollutant subject to an ambient air quality standard and no adverse air quality impact would occur.

(2) The hourly or daily rates set in subsection (1)(b) of this section shall apply only with respect to a pollutant for which an increment or ambient air quality standard, for a period of less than twenty-four (24) hours or for a period of twenty-four (24) hours as appropriate, has been established.

(3) For the purpose of subsection (1)(b) of this section in determining whether and to what extent a modification would increase allowable emissions, there shall be taken into account no emission reductions achieved elsewhere at the source at which the modification would occur.

(4) For the purpose of subsection (1)(d) of this section in determining whether and to what extent there would be an increase in the net amount of emissions of any pollutant subject to an ambient air quality standard from the source which is modified, there shall be taken into account all emission increases and decreases occurring at the source since the classification date of this regulation.

(5) The requirements of Sections 12, 14 and 16 shall not apply to a new major stationary source or major modification with respect to emissions from it which the owner or operator has shown to be fugitive soil.

Section 12. Air Quality Review. The owner or operator of the proposed new major source or modification must demonstrate that allowable emissions increases from the source or modification, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to air pollution in violation of:

(1) Any ambient air quality standard; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

Section 13. Air Quality Models. All estimates of ambient concentrations required under Section 12 shall be subject to the provisions of 401 KAR 50:040.

Section 14. Monitoring. (1) The owner or operator of a proposed new major source or modification shall, after construction of the source or modification, conduct such ambient air quality monitoring *(except for non-methane hydrocarbons)* as the department determines may be necessary to establish the effect which emissions from the source or modification may have, or is having, on air quality in any area which such emissions would affect.

(2) As necessary to determine whether emissions from the proposed new major source or modification would cause or contribute to a violation of an ambient air quality standard, any permit application submitted after August 7, 1978, shall include an analysis of continuous air quality monitoring data for any pollutant specified in Section 1

emitted by the source or modification for which an ambient air quality standard exists, except VOC. Sources emitting VOC shall include an analysis of continuous ozone air quality data. Such data shall relate to, and shall have been gathered over, the year preceding receipt of the complete application, unless the owner or operator demonstrates to the department's satisfaction that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard.

Section 15. Source Information. (1) The owner or operator of a proposed new major source or modification shall submit all information necessary to perform any analysis or make any determination required under [procedures established in accordance with] this regulation[.] *with respect to a source or modification to which Sections 10, 12, 14, and 16 apply, such information shall include:*

(a) A description of nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) A detailed schedule for construction of the source or modifications;

(c) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

(2) [Such information shall include a complete application for a permit meeting the requirements of 401 KAR 50:035, Section 2.] [(3)] Upon request by the department, the owner or operator shall also provide information on:

(a) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(b) The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since *August 7, 1977* [the classification date], in the area the source or modification would affect.

Section 16. Additional Impact Analyses. (1) The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commerical, residential, industrial, and other growth associated with the new major source or modification.

Section 17. Sources Impacting Class I Areas; Additional Requirements: (1) Notice to the U. S. Environmental Protection Agency. The department shall transmit to the U. S. Environmental Protection Agency a copy of each permit application relating to a new major stationary source or major modification and provide notice to the U. S. Environmental Protection Agency of every action related to the consideration of such permit.

(2) Federal land manager. The federal land manager and the federal official charged with direct responsibility for management of Class I lands have an affirmative responsibility to protect the air quality related values (including visibility) of any such lands and to consider, in consultation with the U. S. Environmental Protection Agency whether a proposed new major source or modification would have an adverse impact on such values.

(3) Denial; impact on air quality related values. A federal land manager of any such lands may present to the department, after the department's preliminary determination required under procedures developed in accordance with Section 18, a demonstration that the emissions from the proposed new major source or modification would have an adverse impact on the air quality related values (including visibility) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the department concurs with such demonstration, the department shall not issue the permit.

(4) Class I variances. The owner or operator of a proposed new major source or modification may demonstrate to the federal land manager that the emissions from such source would have no adverse impact on the air quality related values of such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and so certifies to the department, the department may, provided that applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the maximum allowable increases over baseline concentration for such pollutants specified in Appendix B of this regulation.

(5) Sulfur dioxide variance:

(a) The owner or operator of a proposed new major source or modification which cannot be approved under procedures developed pursuant to subsection (4) of this section may demonstrate to the Governor of the Commonwealth of Kentucky that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of twenty-four (24) hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility);

(b) The governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may grant, after notice and an opportunity for a public hearing, a variance from such maximum allowable increase; and

(c) If such variance is granted, the department may issue a permit to such source or modification in accordance with provisions developed pursuant to subsection (7) of this section provided, that the applicable requirements of these regulations are otherwise met.

(6) Variance by the governor with the president's concurrence:

(a) The recommendations of the governor and the federal land manager shall be transferred to the president in any case where the governor recommends a variance in which the federal land manager does not concur;

(b) The president may approve the governor's recom-

mendation if he finds that such variance is in the national interest; and

(c) If such a variance is approved, the department may issue a permit in accordance with provisions developed pursuant to the requirements of subsection (7) of this section provided, that the applicable requirements of these regulations are otherwise met.

(7) Emission limitations for presidential or gubernatorial variance. In the case of a permit issued under procedures developed pursuant to subsection (5) or (6) of this section, the new major source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the maximum allowable increases over the baseline concentration specified in Appendix C of this regulation and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period.

Section 18. Consideration of Applications and Public Participation. Consideration of applications and public participation shall be in accordance with the procedures set forth in 401 KAR 50:035, Section 3.

Section 19. Prohibitions and Source Obligation. The prohibitions and source obligation set forth under 401 KAR 50:035, Sections 1 and 6, shall apply to any owner or operator of a new major source or modification subject to this regulation.

APPENDIX A TO 401 KAR 51:015

AMBIENT AIR INCREMENTS

Pollutant	Maximum Allowable Increase (micrograms per cubic meter)
CLASS I	
Particulate Matter:	
Annual geometric mean	5
24-hour maximum	10
Sulfur Dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
CLASS II	
Particulate Matter:	
Annual geometric mean	19
24-hour maximum	37
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
CLASS III	
Particulate Matter:	
Annual geometric mean	37
24-hour maximum	75
Sulfur Dioxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

APPENDIX B TO 401 KAR 51:015

AMBIENT AIR INCREMENTS FOR CLASS I VARIANCES

Pollutant	Maximum Allowable Increase (micrograms per cubic meter)
Particulate Matter:	
Annual geometric mean	19
24-hour maximum	37
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325

APPENDIX C TO 401 KAR 51:015

AMBIENT AIR INCREMENTS FOR PRESIDENTIAL OR GUBERNATORIAL SO_2 VARIANCES

Maximum Allowable Increase
(Micrograms per cubic meter)

	Terrain areas	
Period of Exposure	Low	High
24-hour maximum	36	62
3-hour maximum	130	221

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 51:050. Stationary sources; constructing in or impacting upon non-attainment areas.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation establishes requirements for the construction, modification and reconstruction of stationary sources within, or impacting upon, areas where the ambient air quality standards have not been attained.

Section 1. Applicability. The requirements of this regulation shall apply to new major sources or major modifications commenced on or after the classification date defined below that will cause or contribute to an exacerbation of any violation of the ambient air quality standards contained in 401 KAR 53:010 within any non-attainment area designated in 401 KAR 51:010 or areas otherwise shown to be exceeding applicable ambient standards.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Potential to emit" means the maximum capacity to emit a pollutant in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

(2) "Major source" means any new or existing source for which the potential emission rate is equal to or greater than 100 tons per year of any of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds, or carbon monoxide.

(3) "Major modification" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any air pollutant specified in subsection (2) of this section (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source since the classification date of this regulation or since the time of the last construction approval issued for the source pursuant to this regulation whichever time is more recent, and regardless of any emission reductions achieved elsewhere in the source) by 100 tons per year or more.

(a) A physical change shall not include routine maintenance, repair, and replacement of component parts.

(b) A change in the method of operation, unless limited by previous permit conditions, shall not include:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the source;
2. An increase in the hours of operation;
3. Use of an alternative fuel or raw material, if on December 21, 1976, the source was capable of accommodating such fuel or material;
4. Use of an alternative fuel or raw material by reason of an order, rule or natural gas curtailment plan under a federal statute or regulation; or
5. Change in ownership of a source.

(4) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit operating rate, or hours of operation, or both) and the most stringent of the following:

(a) Applicable new source performance standards set forth by the U. S. Environmental Protection Agency;

(b) Applicable emission limitations required by the department; or

(c) The emission rate specified as an enforceable permit condition.

(5) "Lowest achievable emission rate" means, for any source, that rate of emissions based on the following, whichever is more stringent:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled.

(c) As applied to a modification, this term means the lowest achievable emission rate for the new or modified facilities within the source. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance as required by the department or the U. S. Environmental Protection Agency.

(6) "Fugitive soil" means particulate emissions composed of soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive soil may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles and other activities in which soil is either removed, stored, transported or redistributed.

(7) "Reconstruction" shall be as defined in 401 KAR 50:010. A reconstructed source shall be treated as a new source for purposes of this regulation except that the use of an alternative fuel or raw material by reason of an order, rule or natural gas curtailment plan under a federal statute or regulation shall not result in the source being considered reconstructed.

(8) "VOC" means volatile organic compound(s).

(9) "Classification date" means the effective date of this regulation.

(10) "Urbanized area" means any area defined as such by the U. S. Department of Commerce, Bureau of Census.

(11) "Urban county" means any county which is a part of an urbanized area with a population of greater than 200,000 based upon the 1970 census. If any portion of a county is a part of such an urbanized area, then the entire county shall be classified as urban with respect to the regulations of the Division of Air Pollution.

(12) "Reasonable further progress" means annual incremental reductions in emissions of the applicable air pollutant which are sufficient, in the judgment of the department and the U. S. Environmental Protection Agency, to provide for attainment of the applicable ambient air quality standard by the date specified in 401 KAR 51:010, Section 2.

Section 3. Determination of Applicable Requirements. (1) Review of specified sources for air quality impact. For each proposed major new source or major modification with allowable emissions exceeding fifty (50) tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is the most restrictive, the department shall determine if the source will cause or contribute to an exacerbation of any violation of an ambient air quality standard for those pollutants for which the increased allowable emissions exceeds fifty (50) tons per year, 1,000 pounds per day, or 100 pounds per hour, although the review by the department may address other pollutants if it is deemed appropriate. The preceding hourly and daily rates shall apply only with respect to a pollutant for which an ambient air quality standard for a period less than twenty-four (24) hours or for a twenty-four (24) hour period, as appropriate, has been established.

(2) A proposed major source or major modification which would not exacerbate an existing violation of an ambient air quality standard may be approved without further analysis, provided such a source otherwise meets the requirements of the department.

(3) Where a source is constructed or modified in such manner that individually it does not emit more than the amounts specified in subsection (1) of this section and the increments have not been offset, the allowable emissions

from all such construction or modifications granted a permit to construct after December 21, 1976, shall be added together and this regulation shall be applicable when a proposed construction or modification would cause the sum of the allowable emissions which have not been offset to equal or exceed fifty (50) tons per year, 1,000 pounds per day, or 100 pounds per hour. If the total increase in allowable emissions from the construction or modification would cause or contribute to a violation of an ambient air quality standard, all of the provisions of this regulation shall be applicable to each increment. If any of the increments have not previously been subject to Section 4(1) or any federal rule requiring the source to meet the lowest achievable emission rate, such determination shall consider the stage of construction of such construction or modification and the ability of the source to install additional control equipment.

(4) For sources of sulfur dioxide, particulate matter, carbon monoxide and nitrogen oxides, the determination of whether a new major source or major modification will cause or contribute to a violation of an ambient air quality standard shall be made on a case-by-case basis using the source's allowable emissions in an approved atmospheric simulation model.

(5) For sources of nitrogen oxides, the initial determination of whether a new major source or major modification would cause or contribute to a violation of the ambient standard for nitrogen dioxide shall be made using an approved atmospheric simulation model assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate.

(6) New major sources or major modification emitting volatile organic compounds (VOC) locating in areas classified as non-attainment for ozone pursuant to 401 KAR 51:010, or otherwise shown to be in violation of the ambient standard for ozone, shall be subject to the provisions of Section 4. [In addition, such VOC sources located within a radius from the new source equivalent to thirty-six (36) hours VOC travel time (under wind conditions associated with high ozone concentrations) of a non-attainment ozone monitor shall also be subject to Section 4 if it would impact the monitor.]

(7) The determination as to whether a new major source or major modification would cause or contribute to an exacerbation of any violation of an ambient air quality standard shall be made as of the start-up date.

(8) (a) A new major source or major modification locating in an attainment portion (or which will be in attainment as of the start-up date) of a designated non-attainment area pursuant to 401 KAR 51:010 may be exempt from the requirements of this regulation if the allowable emissions from the source or affected facility (not including any emission reductions achieved elsewhere in the source) would not cause the significance levels specified in Appendix A of this regulation to be exceeded in the actual area of non-attainment (as of the new source start-up date).

(b) If the new major source or modification would exceed the significance levels in the actual area of non-attainment, all requirements of this regulation shall be applicable except that the source may be exempt from the requirements of Section 4(3) if the requirements of Section 4(4) are otherwise fulfilled.

(c) It will be assumed initially that every locality in a designated non-attainment area will exceed the ambient standard (as of the new source start-up date), and that any new major source or modification locating in the area will significantly contribute to the violation. However, if the applicant or any other participant presents a substantial basis (including any necessary analysis or other demonstration) why that assumption is incorrect, then the department may reconsider the assumption.

(9) For areas designated as attaining the ambient standards or which cannot be classified as to their attainment status pursuant to 401 KAR 51:010, new major sources or major modifications locating in such areas which would exceed the significance levels contained in Appendix A of this regulation at any locality that does not meet the ambient air quality standard are subject to all the requirements of this regulation. Such sources may be exempt from the requirements of Section 4(3) if the requirements of Section 4(4) are otherwise fulfilled.

(10) Fugitive soil sources. Fugitive soil associated with new major sources or major modifications locating in an actual non-attainment area shall be subject to Section 4.

Section 4. Conditions for Approval of Sources. New major source or major modification which would contribute to concentrations which exceed an ambient air quality standard as of the source's proposed start-up date may be approved only if the following conditions are met:

(1) The new major source or major modification shall be required to meet an emission limitation which specifies the lowest achievable emission rate for such source.

(2) The applicant shall certify that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in the Commonwealth of Kentucky are in compliance with all applicable emission limitations and standards (or are in compliance with an expeditious schedule which complies with the requirements of Section 6 or is contained in a court decree).

(3) Emissions from existing sources in the affected area of the proposed new major source or modifications (whether or not under the same ownership) shall be reduced such that there will be reasonable progress toward attainment of the applicable ambient air quality standard.

(4) The emission reductions shall be such as to provide a positive net air quality benefit in the affected area.

(5) Notwithstanding the size exemption in Section 3(1) for a new major source or major modification anywhere impacting upon an area designated as a non-attainment area under 401 KAR 51:010, permits applied for after June 30, 1979, shall specify that construction may not commence unless the U. S. Environmental Protection Agency has determined that the requirements of the department for the area meet the requirements of Part D, Title I, of the Clean Air Act.

(6) For a new major source or major modification of VOC or carbon monoxide proposed for construction or modification within any urban county which is designated non-attainment under 401 KAR 51:010 for ozone or carbon monoxide, the applicant shall provide an analysis for alternative sites, sizes, production processes and environmental control techniques for such proposed source which demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(7) The emission limitations for the new major source or major modification as well as any existing sources affected shall be enforceable in accordance with the mechanisms set forth in Section 6.

(8) The new major source or major modification may be

exempt from some of the requirements of this section as provided under Section 5.

Section 5. Exemptions. (1) Exemptions from certain conditions. The department may exempt the following sources from Section 4(3) and (4):

(a) Resource recovery projects burning municipal solid waste;

(b) Sources which must switch fuels due to lack of adequate fuel supplies or a source which is required to be modified as a result of U. S. Environmental Protection Agency regulations or other federal statutes and no exemption from such regulation or statute is available to the source. Such an exemption may be granted only if all the requirements of paragraph (c) of this subsection are met;

(c) The exemptions contained in this subsection for sources identified under paragraphs (a) and (b) shall be granted only if:

1. The applicant demonstrates that it made its best efforts to obtain sufficient emission reductions to comply with Section 4(3) and (4) and that such efforts were unsuccessful;

2. The applicant has secured all available emission offsets;

3. The applicant will continue to seek the necessary emissions offsets and apply them when they become available;

4. Such an exemption may result in the need to revise the applicable requirements of the department to provide additional control of existing sources so as to achieve reasonable progress towards attainment of the applicable ambient standards.

(2) Temporary emission sources, such as pilot plants, portable facilities which will be relocated after a short period of time, and emissions resulting from the construction phase of a new source, shall be exempt from Section 4(3) and (4).

[(3)A new major source or major modification that emits volatile organic compounds may be exempt from Section 4(3) and (4) if the source owner can demonstrate that the emissions from the proposed source or modification will have virtually no effect upon any area within any urban county that exceeds the ambient standard for ozone. This exemption shall not apply to VOC sources located within a radius from the new source equivalent to thirty-six (36) hours VOC travel time (under wind conditions associated with high ozone concentrations) of an urban county which is designated non-attainment for ozone under 401 KAR 51:010.]

(3) [(4)] For sources of VOC or nitrogen oxides, fulfillment of the requirements of Section 4(3) will be considered adequate to meet the requirements of Section 4(4).

(4) [(5)] Fugitive soil associated with major sources or major modifications locating in an actual non-attainment area shall be exempt from Section 4(4).

Section 6. Emission Offsets. (1) The baseline for determining credit for emission reductions or offsets will be the emission limitations required by the department which are in effect at the time the application to construct or modify a source is filed. Where the department requires certain hardware controls in lieu of an emission limitation, baseline allowable emissions shall be based on actual operating conditions for the previous two (2) year period in conjunction with the required hardware controls.

(2) Where the requirements of the department do not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be the actual emissions determined under actual operating conditions for the previous two (2) year period. Where the emission limitations required by the department allow greater emissions than the potential emission rate of the source, emission offset credit will be allowed only for control below the potential emission rate.

(3) The emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the emission limitation requirements of the department for the type of fuel being burned at the time the new source or modification application is filed. If the existing source commits to switch to a different fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is not acceptable unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to the original fuel at some later date.

(4) A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels provided that the work force to be affected has been notified in writing of the proposed shutdown or curtailment[, the environmental benefits accruing thereby and the economic benefits thereof]. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed shall not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one (1) year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source.

(5) (a) Offset credit shall be allowed for reduction in emissions for the same pollutant.

(b) No emission offset credit may be allowed for replacing one (1) volatile organic compound with another, unless the replacement compound is methane or ethane.

(6) For offsets approved after the classification date of this regulation, the department may allow offsets which exceed the reasonable further progress requirement of Section 4(3) to be "banked" for use in the future. The department, in allowing sources to retain control of banked emissions past June 30, 1979, shall exercise control of how and when such banked emissions are used. The department shall not approve the construction of a source using banked emissions if the new source would interfere with reasonable further progress of Section 4(3) toward attainment. To preserve banked emission reductions, the department shall identify them in a permit.

(7) Location of offsetting emissions. In the case of emission offsets involving volatile organic compounds (VOC), the offsets may be obtained from sources located anywhere which would impact upon the non-attainment area impacted by the proposed new source. For sulfur dioxide, particulate matter and carbon monoxide, the department shall require atmospheric simulation modeling to ensure that the emission offsets provide a positive net air quality benefit.

(8) Reasonable progress towards attainment *shall be:*

(a) By the time of startup of operations of the major new source or major modification, the total allowable emissions from existing sources in the non-attainment area, from new or modified sources which are not major sources in the same area and from the proposed major source locating in the area taking into account all proposed offsets

shall be sufficiently less than the total emissions from existing sources allowed in the area under the requirements of the department prior to the application for such permit to construct or modify so as to represent reasonable further progress towards attainment of the ambient air quality standards; *or*

(b) That emissions of VOC pollutants resulting from the proposed new or modified major source will not cause or contribute to emission levels which exceed the allowance provided under the requirements of the department for VOC pollutants in any non-urban area from new or modified major sources.

(9) Administrative procedures:

(a) The necessary emission offsets may be proposed either by the owner of the proposed source or the department. The emission reduction committed to must be enforceable by the department, and must be accomplished by the new source's start-up date. If emission reductions are to be obtained in a state that neighbors the Commonwealth of Kentucky for a new source to be located in the Commonwealth, the emission reductions committed to must be enforceable by the neighboring state and/or local agencies and the U. S. Environmental Protection Agency.

(b) Source initiated emission offsets. The owner and/or operator of a source may propose emission offsets which involve: reductions from sources controlled by the owner (internal emission offsets); and/or reductions from other sources (external emission offsets). As long as the emission offsets obtained represent reasonable progress toward attainment, they shall be acceptable. An internal emission offset will be considered enforceable if it is made a requirement of the department by inclusion as a condition of the new source permit. An external emission offset will not be accepted unless the affected source(s) is subject to a new emission limitation requirement of the department to ensure that its emissions will be reduced by a specified amount in a specified time. The form of the new emission limitation may be a department regulation, operating permit condition, consent or enforcement order, or any arrangement available to the department that is enforceable.

(c) Department initiated emission offsets. The department may commit to reducing emissions from existing sources (including mobile sources) to provide a net air quality benefit in the impact area of the proposed new source so as to accommodate the proposed new source. The commitment must be in compliance with subsection (8) of this section and must be reflected in the emission limitation requirements of the department for the new and existing sources as required by paragraph (a) of this subsection.

APPENDIX A TO 401 KAR 51:050

POLLUTANT SIGNIFICANCE LEVELS

	Averaging Time				
Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO_2	1.0ug/m^3	5.0ug/m^3		25.0ug/m^3	
TSP	1.0ug/m^3	5.0ug/m^3			
NO_2	1.0ug/m^3				
CO			0.5mg/m^3		2.0mg/m^3

No significance increments are applicable for VOC or ozone.

EUGENE F. MOONEY, Secretary
ADOPTED: May 1, 1979
RECEIVED BY LRC: May 2, 1979 at 10:20 a.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 53:010. Ambient air quality standards.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 244.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.

Section 1. Ambient Air Quality Standards. The primary and secondary ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, photochemical oxidants, hydrocarbons, nitrogen dioxide, hydrogen sulfide, gaseous fluorides, total fluorides, and odors are specified in Appendix A of this regulation. Measurements will be by methods specified in Section 2.

Section 2. Methods of Measurement. For those air contaminants for which there are state ambient air quality standards that are the same as the national ambient air quality standards, measurements shall be made according to reference methods, or their equivalent methods. For other air contaminants for which there are state ambient air quality standards, measurements shall be made according to methods as prescribed by the department. The frequency of measurements for all air contaminants shall be prescribed by the department.

Section 3. Within sixty (60) days of promulgation or revision of any ambient air quality standard by the U.S. Environmental Protection Agency, the department shall initiate proceedings to promulgate or review this regulation in conformance with the federal ambient air quality standards.

Section 4. [3.] 401 KAR 3:020 is hereby repealed.

APPENDIX A on next page.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

APPENDIX A TO 401 KAR 53:010
AMBIENT AIR QUALITY STANDARDS

The following air contaminant concentrations shall apply at any single point location:

CONTAMINANT	PRIMARY STANDARD	SECONDARY STANDARD
Sulfur Oxides (Sulfur Dioxide) - $\mu g/m^3$		
Annual Arithmetic Mean, not to exceed	80 (0.03 ppm)	---
Maximum Twenty-Four-Hour Average	365 (0.14 ppm)†	---
Maximum Three-Hour Average	---	1300 (0.50 ppm)†
Particulate Matter - $\mu g/m^3$		
Annual Geometric Mean, not to exceed	75	60‡
Maximum Twenty-Four-Hour Average	260†	150†
Carbon Monoxide - mg/m^3		
Maximum Eight-Hour Average	10 (9 ppm)†	Same as primary
Maximum One-Hour Average	40 (35 ppm)†	Same as primary
Ozone [Photochemical Oxidants] - $\mu g/m^3$		
[(measured as ozone)]		
Maximum [One-Hour] Average	235 (0.12 ppm)⊕ [160 (0.08 ppm)*]	Same as primary
Hydrocarbons - $\mu g/m^3$ ◊		
(measured as CH_4 and corrected for Methane)		
Maximum Three-Hour Morning Average (6-9 A.M.)	160 (0.24 ppm)†	Same as primary
Nitrogen Dioxide - $\mu g/m^3$		
Annual Arithmetic Mean, not to exceed	100 (0.05 ppm)	Same as primary
Lead - $\mu g/m^3$		
Maximum Arithmetic Mean averaged over a calendar quarter	1.5	Same as primary
Hydrogen Sulfide - $\mu g/m^3$		
Maximum One-Hour Average	---	14 (0.01 ppm)†
Gaseous Fluorides - (expressed as HF) - $\mu g/m^3$		
Annual Arithmetic Mean, not to exceed	400 (0.5 ppm)	---
Maximum One-Month Average	---	0.50 (0.60 ppb)†
Maximum One-Week Average	---	0.80 (0.97 ppb)†
Maximum Twenty-Four-Hour Average	800 (1.0 ppm)†	2.86 (3.50 ppb)†
Maximum Twelve-Hour Average	---	3.68 (4.50 ppb)†
Total Fluorides - ppm		
Dry weight basis (as fluoride ion) in and on forage for consumption by grazing ruminants		
The following concentrations are not to be exceeded:		
Average concentration of monthly samples over growing season (not to exceed 6 consecutive months)	---	40 ppm (w/w)
Two-Month Average	---	60 ppm (w/w)
One-Month Average	---	80 ppm (w/w)
Odors		At any time when 1 volume unit of ambient air is mixed with 7 volume units of odorless air, the mixture must have no detectable odor.

Footnotes:

† This average is not to be exceeded more than once per year.

‡ This secondary annual standard is to be used as a guide in assessing implementation plans to achieve the twenty-four (24) hour standard.

⊕ The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm (235 $\mu g/m^3$) is equal to or less than 1, as determined by Appendix H of 40 CFR 50.

[*** The measurement of ozone must be corrected for interferences due to nitrogen oxides and sulfur dioxide.]

◊ This standard is to be used as a guide in devising implementation plans to achieve photochemical oxidant standards.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 55:010. Episode criteria.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation defines those levels of pollutant concentrations which justify the proclamation of an air pollution alert, air pollution warning, and air pollution emergency.

Section 1. General. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the department determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, present a threat to the health of the public. In making this determination, the department shall be guided by the criteria specified in the following sections.

Section 2. Air Pollution Forecast. An internal watch by the department shall be activated by a national weather service advisory that an atmospheric stagnation advisory or special dispersion statement is in effect.

Section 3. Alert. An alert level is that concentration of pollutants at which first stage control actions are to begin. An alert will be declared when any one of the alert levels specified in Appendix A of this regulation is reached at any monitoring site and meteorological conditions are such that the pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase, or in the case of ozone the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.

Section 4. Warning. A warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one of the warning levels specified by Appendix A of this regulation is reached at any monitoring site and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase, or in the case of ozone the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.

Section 5. Emergency. An emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. An emergency will be declared when any one of the emergency levels specified in Appendix A of this regulation is reached at any monitoring site and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.

Section 6. Termination. Any status declared by the application of these criteria will remain in effect until the criteria for that level are no longer met. At such time the next lower appropriate status will be assumed.

Section 7. An episode status based on the deterioration of air quality alone may be declared. An air stagnation advisory or special dispersion statement need not be in effect.

Section 8. An appropriate episode status shall be declared when any monitoring site records ambient air quality levels as designated in the episode criteria herein. The criteria shall be applied to individual monitoring sites and not to area wide air quality.

APPENDIX A TO 401 KAR 55:010

EPISODE CRITERIA
(As Amended)

POLLUTANT	EPISODE STATUS		
	ALERT	WARNING	EMERGENCY
Sulfur Dioxide			
24-Hour Average	800 ug/m^3(0.3ppm)	1,600 ug/m^3(0.6ppm)	2,100 ug/m^3(0.8ppm)
Particulates			
24-Hour Average	375 ug/m^3	625 ug/m^3	875 ug/m^3
Sulfur Dioxide & Particulate Combined SO_2 ug/m^3 24-Hour Average x Particulate ug/m^3 24-Hour Average	65,000	261,000	393,000
Carbon Monoxide			
8-Hour Average	15ppm	30ppm	40ppm
Ozone			
1-Hour Average	0.2ppm	0.4ppm	0.5ppm
Nitrogen Dioxide			
1-Hour Average	1,130 ug/m^3(0.6ppm)	2,260 ug/m^3(1.2ppm)	3,000ug/m^3 (1.6ppm)
24-Hour Average	282 ug/m^3(0.15ppm)	565 ug/m^3(0.3ppm)	750 ug/m^3 (0.4ppm)

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 57:005. General provisions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the defining of terms to be used in this chapter and the setting forth of prohibited activities, administrative procedures, and other general provisions related to this chapter.

Section 1. Applicability. (1) The provisions of this chapter apply to the owner or operator of any stationary source as defined in Section 2.

(2) Any reports required to be submitted to the department under any regulation in this chapter which have been submitted by the owner or operator of a stationary source to the U. S. Environmental Protection Agency prior to the effective date of the applicable regulation will not be required to be submitted to the department unless specifically requested by the department.

Section 2. Definitions. As used in this chapter all terms not defined herein shall have the meaning given them in 401 KAR 50:010 or subsequent regulations within this chapter.

(1) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference method or an equivalent method but which has been demonstrated to the department's and the U. S. Environmental Protection Agency's satisfaction to produce, in specific cases, results adequate for its determination of compliance.

(2) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(3) "Construction" means fabrication, erection, or installation of a stationary source.

(4) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the department's and the U. S. Environmental Protection Agency's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(5) "Existing source" means any stationary source which is not a new source.

(6) "Hazardous air pollutant" means an air pollutant to which no national ambient air quality standard is applicable and which in the judgment of the director causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.

(7) [(6)] "Modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any hazardous air pollutant emitted by such source or which results in the emission of any hazardous air pollutant not previously emitted, except that:

(a) Routine maintenance, repair, and replacement shall not be considered physical changes; and

(b) The following shall not be considered a change in the method of operation:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the stationary source or the maximum operating capacity specified as a condition to a permit issued by the department.

2. An increase in hours of operation provided that such increase does not violate a condition of a permit issued by the department.

(8) [(7)] "New source" means any stationary source, the construction or modification of which is commenced on or after the classification date specified by the applicable standard.

(9) [(8)] "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(10) [(9)] "Reference method" means any method of sampling and analyzing for an air pollutant, as specified in Appendix B to 40 CFR 61, filed by reference in 401 KAR 50:015.

(11) [(10)] "Startup" means the setting in operation of a stationary source for any purpose.

(12) [(11)] "Standard" means an emission standard for a hazardous air pollutant adopted under this chapter.

(13) [(12)] "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant for which a standard has been prescribed under this chapter.

(14) [(13)] "Compliance schedule" means the date or dates by which a source or category of sources is required to comply with the standards of this chapter and with any steps toward compliance which are set forth in a waiver of compliance under Section 9.

Section 3. Prohibited Activities. (1) After the classification date of any standard prescribed under this chapter, no owner or operator shall construct or modify any stationary source subject to such standard without first obtaining a construction permit in accordance with 401 KAR 50:035.

(2) After the classification date of any standard prescribed under this chapter, no owner or operator shall operate any new source without first obtaining an operating permit in accordance with 401 KAR 50:035.

(3) Ninety (90) days after the classification date of any standard prescribed under this chapter, no owner or operator shall operate any existing source without first obtaining an operating permit in accordance with 401 KAR 50:035, except under a waiver granted by the department in accordance with this regulation.

(4) No owner or operator subject to the provisions of this chapter shall fail to report, revise reports, or report source test results as required under this chapter.

Section 4. Determination of Construction or Modification. Upon written application by an owner or operator, the department will make a determination of whether actions taken or intended to be taken by such owner or operator constitute construction or modification or the commencement thereof within the meaning of this chapter. The department will within thirty (30) days of receipt of sufficient information to evaluate an application, notify the owner or operator of its determination.

Section 5. Application for a Permit for Construction or Modification. The owner or operator of any new source to which a standard prescribed under this chapter is applicable shall, prior to the date on which construction or modification is planned to commence, submit to the department an application for a permit for construction or modification of that source according to the provisions of 401 KAR 50:035.

Section 6. Approval by Department. (1) The department will, within ninety (90) days of receipt of sufficient information to evaluate an application under Section 5, notify the owner or operator of its intention to issue or deny the permit for construction or modification.

(2) If the department determines that a stationary source for which an application pursuant to Section 5 was submitted will, if properly operated, not cause emission in violation of a standard and will not be in violation of any air pollution regulation, the department will issue a permit for the construction or modification of such source.

(3) Prior to denying any application for a permit for construction or modification pursuant to this section, the department will notify the owner or operator making such application of the department's intention to issue such denial, together with:

(a) Notice of the information and findings on which such intended denial is based; and

(b) Notice of opportunity for such owner or operator to present within such time limit as the department shall specify, additional information or arguments to the department prior to final action on such application.

(4) A final determination to deny any application for a permit will be in writing and will set forth the specific grounds on which such denial is based. Such final determination will be made within ninety (90) days after the final date specified for presentation, if no presentation is made.

(5) Neither the submission of an application for a permit nor the department's granting of a permit to construct or modify shall:

(a) Relieve an owner or operator of legal responsibility for compliance with any applicable provision of this chapter or of any other applicable federal, state, or local requirement; or

(b) Prevent the department from implementing or enforcing this chapter or taking any other action under Kentucky Revised Statutes.

Section 7. Notification of Startup. Any owner or operator of a source which has an initial startup after the classification date of a standard prescribed under this chapter shall furnish the department written notification as follows:

(1) A notification of the anticipated date of initial startup of the source not more than sixty (60) days nor less than thirty (30) days prior to such date.

(2) A notification of the actual date of initial startup of the source within fifteen (15) days after such date.

Section 8. Source Reporting and Waiver Request. The owner or operator of any existing source shall within ninety (90) days after the classification date of the applicable standard, provide in writing to the department the information specified in subsections (1) to (7) of this section. Changes in the information provided under this section shall be provided to the department within thirty (30) days after such change, except that if changes will result from modification of that source, as defined in Section 2(6), the provisions of Sections 5 and 6 are applicable. The format for reporting under this section is provided by the department. Advice on reporting the status of compliance may be obtained from the department.

(1) Name and address of the owner or operator.

(2) The location of the source.

(3) The types of hazardous pollutants emitted by the stationary source.

(4) A brief description of the nature, size, design, and method of operation of the stationary source including the operating design capacity of such source. Identify each point of emission for each hazardous pollutant.

(5) The average weight per month of the hazardous materials being processed by the source, over the last twelve (12) months preceding the date of the report.

(6) A description of the existing control equipment for each emission point:

(a) Primary control device(s) for each hazardous pollutant.

(b) Secondary control device(s) for each hazardous pollutant.

(c) Estimated control efficiency (percent) for each control device.

(7) A statement by the owner or operator of the source as to whether he can comply with the standards prescribed in this chapter within ninety (90) days of the classification date. The owner or operator of an existing source unable to operate in compliance with any standard prescribed under this chapter may request a waiver of compliance with such standard for a period not exceeding two (2) years from the classification date. Any request shall be in writing and shall include the following information:

(a) A description of the controls to be installed to comply with the standard.

(b) A compliance schedule, including the date each step toward compliance will be reached. Such list shall include as a minimum the following dates:

1. Date by which contracts for emission control systems or process modifications will be awarded, or date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

2. Date of initiation of onsite construction or installation of emission control equipment or process change;

3. Date by which onsite construction or installation of emission control equipment or process modification is to be completed; and

4. Date by which final compliance is to be achieved.

(c) A description of interim emission control steps which will be taken during the waiver period.

Section 9. Waiver of Compliance. (1) Based on the information provided in any request under Section 8, or other information, the department and the U. S. Environmental Protection Agency may grant a waiver of compliance with a standard for a period not exceeding two (2) years from the classification date of such standard.

(2) Such waiver will be in writing and will:

(a) Identify the stationary source covered.

(b) Specify the termination date of the waiver. The waiver may be terminated at an earlier date if the conditions specified under paragraph (c) of this subsection are not met.

(c) Specify dates by which steps toward compliance are to be taken; and impose such additional conditions as the department and the U. S. Environmental Protection Agency determine to be necessary to assure protection of the health of persons during the waiver period.

(3) Prior to denying any request for a waiver pursuant to this regulation, the department and the U. S. Environmental Protection Agency will notify the owner or operator making such request of the department's and the agency's intention to issue such denial, together with:

(a) Notice of the information and findings on which the denial is based; and

(b) Notice of opportunity for such owner or operator to present, within such time limit as the department and the U. S. Environmental Protection Agency specify, additional information or arguments to the department and the agency prior to final action on such request.

(4) A final determination to deny any request for a waiver will be in writing and will set forth the specific grounds on which such denial is based. Such final determination will be made within ninety (90) days after presentation of additional information or arguments, or ninety (90) days after the final date specified for such presentation, if no presentation is made.

Section 10. Emission Tests and Monitoring. (1) Emission tests and monitoring shall be conducted and reported as set forth in this chapter and by Appendix B to 40 CFR 61.

(2) The owner or operator of a new source subject to this chapter and, at the request of the department, the owner or operator of an existing source subject to this chapter shall provide or cause to be provided emission testing facilities as follows:

(a) Sampling ports adequate for test methods applicable to such source.

(b) Safe sampling platform(s).

(c) Safe access to sampling platform(s).

(d) Utilities for sampling and testing equipment.

Section 11. Waiver of Emission Tests. (1) Emission tests may be waived upon written application to the department and the U. S. Environmental Protection Agency if, in their judgment, the source is meeting the standard, or if the source is operating under a waiver of compliance.

(2) If application for waiver of the emission test is made, such application shall accompany the information required by Section 8. The appropriate form is provided by the department.

(3) Approval of any waiver granted pursuant to this section shall not abrogate the department's authority or in any way prohibit the department from later canceling such waiver. Such cancellation will be made only after notice is given to the owner or operator of the source.

Section 12. Source Test and Analytical Methods. Methods 101, 102, 104, 106, and 107 in Appendix B to 40 CFR 61 shall be used for all source tests required under this chapter unless an equivalent method or an alternative method has been approved by the department and the U. S. Environmental Protection Agency. Where the test results using an alternative method do not adequately indicate whether a source is in compliance with a standard, the department may require the use of the reference method or its equivalent.

Section 13. Circumvention. No owner or operator subject to the provisions of this regulation shall build, erect, install, or use any article, machine, equipment, process or method, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous dilutants to achieve compliance with a visible emissions standard, the piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size, and the failure to accurately and completely describe the stationary source as outlined in Section 8.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 57:010. Asbestos emissions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of asbestos emissions.

Section 1. Applicability. The provisions of this regulation are applicable to those sources specified in Section 3.

Section 2. Definitions. Terms used in this section not defined herein shall have the meaning given to them in 401 KAR 57:005, or not defined therein shall have the meaning given to them in 401 KAR 50:010.

(1) "Asbestos" means actinolite, amosite, anthophylite, chrysotile, crocidolite, tremolite.

(2) "Asbestos material" means asbestos or any material containing asbestos.

(3) "Particulate asbestos material" means finely divided particles of asbestos material.

(4) "Asbestos tailings" means any solid waste product of asbestos mining or milling operations which contains asbestos.

(5) "Outside air" means the air outside buildings and structures.

(6) "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate asbestos material.

(7) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of such facility.

(8) "Commerical asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(9) "Manufacturing" means the combining of commercial asbestos, or in the case of woven friction products the combining of textiles containing commercial asbestos, with any other material(s), including commercial asbestos, and the processing of this combination into a product as specified in Section 3.

(10) "Demolition" means the wrecking or removal of any load-supporting structural member and any related removing or stripping of friable asbestos materials.

(11) "Friable asbestos material" means any material that contains more than one (1) percent asbestos by weight and that can be reduced to powder, crumbled or pulverized, when dry, by hand pressure.

(12) "Control device asbestos waste" means any asbestos containing waste material that is collected in a pollution control device.

(13) "Renovation" means the removing or stripping of friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member. Operations in which load-supporting structural members are wrecked or taken out are excluded.

(14) "Planned renovation" means a renovation operation, or a number of such operations, in which the amount

of friable asbestos material that will be removed or stripped within a given period of time can be predicted. Operations that are individually non-scheduled are included, provided a number of such operations can be predicted to occur during a given period of time based on operating experience.

(15) "Emergency renovation" means a renovation operation that results from a sudden, unexpected event, and is not a planned renovation. Operations necessitated by non-routine failures of equiment are included.

(16) "Adequately wetted" means sufficiently mixed or coated with water or an aqueous solution to prevent dust emissions.

(17) "Removing" means taking out friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member from any building, structure, facility, or installation.

(18) "Stripping" means taking off friable asbestos materials from any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member.

(19) "Fabricating" means any processing of a manufactured product containing commercial asbestos, with the exception of processing at temporary sites for the construction or restoration of buildings, structures, facilities or installations.

(20) "Inactive waste disposal site" means any disposal site or portion thereof where additional asbestos-containing waste material will not be deposited and where the surface is not disturbed by vehicular traffic.

(21) "Active waste disposal site" means any disposal site other than an inactive site.

(22) "Roadways" means surfaces on which motor vehicles travel including, but not limited to, highways, roads, streets, parking areas, and driveways.

(23) "Asbestos-containing waste material" means any waste which contains commercial asbestos and is generated by a source subject to the provisions of this regulation, including asbestos mill tailings, control device asbestos waste, friable asbestos waste material, and bags or containers that previously contained commercial asbestos.

(24) "Classification date" means *April 6, 1973* [December 7, 1971].

Section 3. Emission Standard. (1) Asbestos mills: There shall be no visible emissions to the outside air from any asbestos mill except as provided in subsection (6) of this section.

(2) Roadways: The surfacing of roadways with asbestos tailings or with asbestos-containing waste that is generated by any source subject to subsections (3), (4), (5), or (8) of this section is prohibited, except for temporary roadways on an area of asbestos ore deposits. The deposition of asbestos tailings or asbestos containing waste on roadways covered with snow or ice is considered "surfacing."

(3) Manufacturing: There shall be no visible emissions to the outside air, except as provided in subsection (6) of this section, from any of the following operations if they use commercial asbestos or from any building or structure in which such operations are conducted:

(a) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap or other textile materials.

(b) The manufacture of cement products.

(c) The manufacture of fireproofing and insulating materials.

(d) The manufacture of friction products.

(e) The manufacture of paper, millboard, and felt.

(f) The manufacture of floor tile.

(g) The manufacture of paints, coatings, caulks, adhesives, sealants.

(h) The manufacture of plastics and rubber materials.

(i) The manufacture of chlorine.

(j) The manufacture of shotgun shells.

(k) The manufacture of asphalt concrete.

(4) Demolition and renovation: The requirements of this subsection shall apply to any owner or operator of a demolition or renovation operation who intends to demolish any institutional, commercial, or industrial building (including apartment buildings having more than four dwelling units), structure, facility, installation, or portion thereof which contains any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member that is covered or coated with friable asbestos materials, except as provided in paragraph (a) of this subsection; or who intends to renovate any institutional, commercial, or industrial building, structure, facility, installation, or portion thereof where more than eighty (80) linear meters (ca. 260 feet) of pipe covered or coated with friable asbestos material are stripped or removed, or more than fifteen (15) square meters (ca. 160 square feet) of friable asbestos materials used to cover or coat any duct, boiler, tank, reactor, turbine, furnace, or structural member are stripped or removed.

(a) The owner or operator of a demolition operation is exempted from the requirements of this subsection provided, the amount of friable asbestos materials in the building or portion thereof to be demolished is less than eighty (80) linear meters (ca. 260 feet) used on pipes, and less than fifteen (15) square meters (ca. 160 square feet) used on any duct, boiler, tank, reactor, turbine, furnace, or structural member, and the following notification requirements are met. Written notification shall be postmarked or delivered to the department at least twenty (20) days prior to commencement of demolition and shall include the information required by paragraph (b) of this subsection with the exception of the information required by subsection (4)(b)3,6,7,8 and 9 of this section, and shall state the measured or estimated amount of friable asbestos materials which is present. Techniques of estimation shall be explained.

(b) Written notice of intention to demolish or renovate shall be provided to the department by the owner or operator of the demolition or renovation operation. Such notice shall be postmarked or delivered to the department at least ten (10) days prior to commencement of demolition, or as early as possible prior to commencement of emergency demolition subject to paragraph (g) of this subsection, and as early as possible prior to commencement of renovation. Such notice shall include the following information:

1. Name of owner or operator.
2. Address of owner or operator.
3. Description of the building, structure, facility, or installation to be demolished or renovated, including the size, age, and prior use of the structure, and the approximate amount of friable asbestos materials present.
4. Address or location of the building, structure, facility, or installation.
5. Scheduled starting and completion dates of demolition or renovation.
6. Nature of planned demolition or renovation and method(s) to be employed.
7. Procedures to be employed to meet the requirements of this paragraph and subsection (10) of this section.
8. The name and address or location of the waste disposal site where the friable asbestos waste will be deposited.

9. Name, title, and authority of the state or local governmental representative who has ordered a demolition which is subject to paragraph (g) of this subsection.

(c) For purposes of determining whether a planned renovating operation constitutes a renovation within the meaning of this subsection, the amount of friable asbestos material to be removed or stripped shall be:

1. For planned renovating operations involving individually non-scheduled operations, the additive amount of friable asbestos material that can be predicted to be removed or stripped at a source over the maximum period of time for which a prediction can be made. The period shall be not less than thirty (30) days and not longer than one (1) year.

2. For each planned renovating operation not covered by subparagraph 1. of this paragraph, the total amount of friable asbestos material that can be predicted to be removed or stripped at a source.

(d) For purposes of determining whether an emergency renovating operation constitutes a renovation within the meaning of this subsection, the amount of friable asbestos material to be removed or stripped shall be the total amount of friable asbestos material that will be removed or stripped as a result of the sudden, unexpected event that necessitated the renovation.

(e) The following procedures shall be used to prevent emissions of particulate asbestos material to outside air:

1. Friable asbestos materials, used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member, shall be removed from any building, structure, facility or installation subject to this subsection. Such removal shall occur before wrecking or dismantling of any portion of such building, structure, facility, or installation that would break up the friable asbestos materials and before wrecking or dismantling of any other portion of such building, structure, facility, or installation that would preclude access to such materials for subsequent removal. Removal of friable asbestos materials used on any pipe, duct, or structural member which are encased in concrete or other similar structural material is not required prior to demolition, but such material shall be adequately wetted whenever exposed during demolition.

2. Friable asbestos materials used on pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members shall be adequately wetted during stripping, except as provided in subparagraphs 4. 6. or 7. of this paragraph.

3. Pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members that are covered or coated with friable asbestos materials may be taken out of any building, structure, facility, or installation subject to this subsection as units or in sections provided the friable asbestos materials exposed during cutting or disjointing are adequately wetted during the cutting or disjointing operation. Such units shall not be dropped or thrown to the ground, but shall be carefully lowered to ground level.

4. The stripping of friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member that has been removed as a unit or in sections as provided in subparagraph 3. of this paragraph shall be performed in accordance with subpargraph 2. of this paragraph. Rather than comply with the wetting requirement, a local exhaust ventilation and collection system may be used to prevent emissions to the outside air. Such local exhaust ventilation systems shall be designed and operated to capture the asbestos particulate matter produced by the stripping of friable asbestos materials. There shall be no visible emissions to the outside air from such local exhaust ventilation and collection systems except as provided in subsection (6) of this section.

5. All friable asbestos materials that have been removed or stripped shall be adequately wetted to ensure that such materials remain wet during all remaining stages of demolition or renovation and related handling operations. Such materials shall not be dropped or thrown to the ground or a lower floor. Such materials that have been removed or stripped more than fifty (50) feet above ground level, except those materials removed as units or in sections, shall be transported to the ground via dust-tight chutes or containers.

6. Except as specified below, the wetting requirements of this paragraph are suspended when the temperature at the point of wetting is below 0°C (32°F). When friable asbestos materials are not wetted due to freezing temperatures, such materials on pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members shall, to the maximum extent possible, be removed as units or in sections prior to wrecking. In no case shall the requirements of subparagraphs 4. or 5. of this paragraph be suspended due to freezing temperatures.

7. For renovation operations, local exhaust ventilation and collection systems may be used, instead of wetting as specified in subparagraph 2. of this paragraph to prevent emissions of particulate asbestos material to outside air when damage to equipment resulting from the wetting would be unavoidable. Upon request and supply of adequate information, the department will determine whether damage to equipment resulting from wetting to comply with the provisions of this subsection would be unavoidable. Such local exhaust ventilation systems shall be designed and operated to capture the asbestos particulate matter produced by the stripping removal of friable asbestos material. There shall be no visible emissions to the outside air from such local exhaust ventilation and collection systems except as provided in subsection (6) of this section.

(f) Sources subject to this subsection, demolition and renovation, are exempt from the requirements to obtain permits as set forth in 401 KAR 57:005.

(g) The demolition of a building, structure, facility, or installation, pursuant to an order of an authorized representative of a state or local government agency, issued because that building is structurally unsound and in danger of imminent collapse is exempt from all but the following requirements of subsection (4) of this section:

1. The notification requirements specified by subsection (4)(b) of this section.

2. The requirements on stripping of friable asbestos materials from previously removed units or sections as specified in subsection (4)(e)4. of this section.

3. The wetting, as specified by subsection (4)(e)5. of this section, of friable asbestos materials that have been removed or stripped.

4. The portion of the structure being demolished that contains friable asbestos materials shall be adequately wetted during the wrecking operation.

(5) Spraying: There shall be no visible emissions to the outside air from the spray-on application of materials containing more than one (1) percent asbestos, on a dry weight basis, used on equipment and machinery, except as provided in subsection (6) of this section. Materials sprayed on buildings, structures, structural members, pipes, and conduits shall contain less than one (1) percent asbestos on a dry weight basis.

(a) Sources subject to this subsection, spraying, are exempt from the requirements to obtain permits as set forth in 401 KAR 57:005.

(b) Any owner or operator who intends to spray asbestos materials which contain more than one (1) percent asbestos on a dry weight basis on equipment and machinery shall report such intention to the department at least twenty (20) days prior to the commencement of the spraying operation. Such report shall include the following information:

1. Name of owner or operator.
2. Address of owner or operator.
3. Location of spraying operation.
4. Procedures to be followed to meet the requirements of this subsection.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of this subsection.

(6) Rather than meet the no-visible-emission requirements of subsections (1), (3), (4), (5), (8), (10), and (11) of this section, an owner or operator may elect to use the methods specified by Section 4 to clean emissions containing particulate asbestos material before such emissions escape to, or are vented to, the outside air.

(7) Where the presence of uncombined water is the sole reason for failure to meet the no-visible-emission requirement of subsections (1), (3), (4), (5), (8), (10), or (11) of this section, such failure shall not be a violation of such emission requirements.

(8) Fabricating: There shall be no visible emissions to the outside air, except as provided in subsection (6) of this section, from any of the following operations if they use commercial asbestos or from any building or structure in which such operations are conducted.

(a) The fabrication of cement building products.

(b) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.

(c) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.

(9) Insulating: Molded insulating materials which are friable and wet-applied insulating materials which are friable after drying, installed after the classification date of this regulation, shall contain no commercial asbestos. The provisions of this subsection do not apply to insulating materials which are spray applied; such materials are regulated under subsection (5) of this section.

(10) Waste disposal for manufacturing, fabricating, demolition, renovation and spraying operations: The owner or operator of any source covered under the provisions of subsections (3), (4), (5), or (8) of this section shall meet the following standards:

(a) There shall be no visible emissions to the outside air, except as provided in paragraph (c) of this subsection, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.

(b) All asbestos-containing waste material shall be deposited at waste disposal sites which are operated in accordance with the provisions of Section 6.

(c) Rather than meet the requirement of paragraph (a) of this subsection, an owner or operator may elect to use either of the disposal methods specified under paragraphs (d) and (e) of this subsection, or an alternative disposal method which has received prior approval by the department.

(d) Treatment of asbestos-containing waste material with water.

1. Control device asbestos waste shall be thoroughly mixed with water into a slurry and other asbestos-containing waste material shall be adequately wetted. There shall be no visible emissions to the outside air from the collection, mixing and wetting operations, except as provided in subsection (6) of this section.
2. After wetting, all asbestos-containing waste material shall be sealed into leak-tight containers while wet, and such containers shall be deposited at waste disposal sites which are operated in accordance with the provisions of Section 6.
3. The containers specified under subparagraph 2. of this paragraph shall be labeled with a warning label that states:

Caution
Contains Asbestos
Avoid Opening or Breaking Container
Breathing Asbestos is Hazardous
to Your Health

Alternatively, warning labels specified by occupational safety and health standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) may be used.

(e) Processing of asbestos-containing waste material into non-friable forms:

1. All asbestos-containing waste material shall be formed into non-friable pellets or other shapes and deposited at waste disposal sites which are operated in accordance with the provisions of Section 6.
2. There shall be no visible emissions to the outside air from the collection and processing of asbestos-containing waste material, except as specified in subsection (6) of this section.

(f) For the purposes of this subsection, the term "all asbestos-containing waste material" as applied to demolition and renovation operations covered by subsection (4) of this section includes only friable asbestos waste and control device asbestos waste.

(11) Waste disposal for asbestos mills. The owner or operator of any source covered under the provisions of subsection (1) of this section shall meet the following standards:

(a) There shall be no visible emissions to the outside air, except as provided in paragraph (c) of this subsection during the collection, processing, packaging, transporting or deposition of any asbestos-containing waste material which is generated by such source.

(b) All asbestos-containing waste material shall be deposited at waste disposal sites which are operated in accordance with the provisions of Section 6.

(c) Rather than meet the requirement of paragraph (a) of this subsection, an owner or operator may elect to meet the following requirements in paragraphs (d) and (e) of this subsection, or use an alternative disposal method which has received prior approval by the department.

(d) There shall be no visible emissions to the outside air from the transfer of control device asbestos waste to the tailings conveyor, except as provided in subsection (6) of this section. Such waste shall be subsequently processed either as specified in paragraph (e) of this subsection or as specified in subsection (10)(c) of this section.

(e) All asbestos-containing waste material shall be adequately mixed, with a wetting agent recommended by the manufacturer of the agent to effectively wet dust and tailings, prior to deposition at a waste disposal site. Such

agent shall be used as recommended for the particular dust by the manufacturer of the agent. There shall be no discharge of visible emissions to the outside air from the wetting operation except as specified in subsection (6) of this section. Wetting may be suspended when the ambient temperature at the waste disposal site is less than minus 9.5°C (ca. fifteen (15) °F). The ambient air temperature shall be determined by an appropriate measurement method with an accuracy of plus or minus one (1) °C (plus or minus two (2) °F) and recorded at least at hourly intervals during the period that the operation of the wetting system is suspended. Records of such temperature measurements shall be retained at the source for a minimum of two (2) years and made available for inspection by the department.

(12) The owner of any inactive waste disposal site, which was operated by sources covered under subsections (1), (3), or (8) of this section and where asbestos-containing waste material produced by such sources was deposited, shall meet the following standards:

(a) There shall be no visible emissions to the outside air from an inactive waste disposal site subject to this paragraph, except as provided in paragraph (e) of this subsection.

(b) Warning signs shall be displayed at all entrances, and along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited, at intervals of 100 m (ca. 330 ft.) or less, except as specified in paragraph (d) of this subsection. Signs shall be posted in such a manner and location that a person may easily read the legend. The warning signs shall be twenty (20) inches by fourteen (14) inches upright format signs and conform to the requirements specified in this subsection. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

LEGEND
ASBESTOS WASTE DISPOSAL SITE
Do Not Create Dust
Breathing Asbestos Is Hazardous
to Your Health
Notation
1″ Sans Serif, Gothic or Block
¾″ Sans Serif, Gothic or Block
14 Point Gothic

Spacing between lines shall be at least equal to the height of the upper of the two (2) lines.

(c) The perimeter of the site shall be fenced in a manner adequate to deter access by the general public, except as specified in paragraph (d) of this subsection.

(d) Warning signs and fencing are not required where the requirements of subsection (12)(e)1 or 2 of this section are met, or where a natural barrier adequately deters access by the general public. Upon request and supply of appropriate information, the department will determine whether a fence or a natural barrier adequately deters access to the general public.

(e) Rather than meet the requirement of paragraph (a) of this subsection, an owner may elect to meet the requirements of this paragraph or may use an alternative control method for emissions from inactive waste disposal sites which has received prior approval by the department.

1. The asbestos-containing waste material shall be covered with at least fifteen (15) centimeters (ca. six (6) inches) of compacted non-asbestos-containing material, and a cover of vegetation shall be grown and maintained on the area adequate to prevent exposure of the asbestos-containing waste material; or

2. The asbestos-containing waste material shall be covered with at least sixty (60) centimeters (ca. two (2) feet) of compacted non-asbestos-containing material and maintained to prevent exposure of the asbestos-containing waste; or

3. For inactive waste disposal sites for asbestos tailings, a resinous or petroleum-based dust suppression agent which effectively binds dust and controls wind erosions shall be applied. Such agent shall be used as recommended for the particular asbestos tailings by the dust suppression agent manufacturer. Other equally effective dust suppression agents may be used upon prior approval by the department. For purposes of this subparagraph, waste crankcase oil is not considered a dust suppression agent.

Section 4. Air Cleaning. If air cleaning is elected, as provided by Section 3(4)(e)4 and (6), the requirements of this section shall be met.

(1) Fabric filter collection devices shall be used, except as noted in subsections (2) and (3) of this section. Such devices shall be operated at a pressure drop of no more than four (4) inches water gauge, as measured across the filter fabric. The airflow permeability, as determined by a method specified by the department, must not exceed thirty (30) cubic feet/min/square foot for woven fabrics or thirty-five (35) cubic feet/min/square foot for felted fabrics except that forty (40) cubic feet/min/square foot for woven and forty-five (45) cubic feet/min/square foot for felted fabrics is allowed for filtering air from asbestos ore dryers. Each square yard of felted fabric shall weigh at least fourteen (14) ounces and be at least one-sixteenth (1/16) inch thick throughout. Synthetic fabrics shall not contain fill yarn other than that which is spun.

(2) If the use of fabric filters creates a fire or explosion hazard, the department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least forty (40) inches water gauge pressure.

(3) The department may authorize the use of filtering equipment other than that described in subsections (1) and (2) of this section if the owner or operator demonstrates to the satisfaction of the department that the filtering of particulate asbestos material is equivalent to that described equipment.

(4) All air-cleaning equipment authorized by this section shall be properly installed, used, operated, and maintained. Bypass devices may be used only during upset or emergency conditions and then only for so long as it takes to shut down the operation generating the particulate asbestos material.

Section 5. Reporting. The owner or operator of any existing source to which this section is applicable shall, within ninety (90) days after the classification date of this regulation provide the following information to the department:

(1) A description of the emission control equipment used for each process.

(2) If a fabric filter device is used to control emissions, the pressure drop across the fabric filter in inches water gauge.

(a) If the fabric filter device utilizes a woven fabric, the airflow permeability in cubic feet/min/square foot; and if the fabric is synthetic, indicate whether the fill yarn is spun or not spun.

(b) If the fabric filter device utilizes a felted fabric the density in ounces/square yard, the minimum thickness in inches, and the airflow permeability in cubic feet/min/-square foot.

(3) For sources subject to Sections 3(10) and (11):
(a) A brief description of each process that generates asbestos-containing waste material.
(b) The average weight of asbestos-containing waste material disposed of, measured in kg/day.
(c) The emission control methods used in all stages of waste disposal.
(d) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator and the name and location of the disposal site.
(4) For sources subject to Section 3(12):
(a) A brief description of the site.
(b) The method or methods used to comply with the standard, or alternative procedures to be used.
(5) Such information shall accompany the information required by 401 KAR 57:005, Section 8. The information described in this section shall be reported using a format provided by the department.

Section 6. Waste Disposal Sites. In order to be an acceptable site for disposal of asbestos containing waste material under Section 3(10) and (11), an active waste disposal site shall meet the requirements of this section.
(1) There shall be no visible emissions to the outside air from any active waste disposal site where asbestos-containing waste material has been deposited, except as provided in subsection (5) of this section.
(2) Warning signs shall be displayed at all entrances, and along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material is deposited, at intervals of 100 m (ca. 330 ft.) or less except as specified in subsection (4) of this section. Signs shall be posted in such a manner and location that a person may easily read the legend. The warning signs shall be twenty (20) inches by fourteen (14) inches upright format signs and conform to the requirements specified in this subsection. The signs shall display the legend outlined in Section 3(12)(b).
(3) The perimeter of the disposal site shall be fenced in order to adequately deter access to the general public except as specified in subsection (4) of this section.
(4) Warning signs and fencing are not required where the requirements of subsection (5)(a) of this section are met, or where a natural barrier adequately deters access to the general public. Upon request and supply of appropriate information, the department will determine whether a fence or a natural barrier adequately deters access to the general public.
(5) Rather than meet the requirement of subsection (1) of this section, an owner or operator may elect to meet the requirements of Section 5(5)(a) or (b), or may use an alternative control method for emissions from active waste disposal sites which has received prior approval by the department.
(a) At the end of each operating day, or at least once every twenty-four (24) hour period while the site is in continuous operation, the asbestos-containing waste material which was deposited at the site during the operating day or previous twenty-four (24) hour period shall be covered with at least fifteen (15) centimeters (ca. six (6) inches) of compacted non-asbestos-containing material.
(b) At the end of each operating day, or at least once every twenty-four (24) hour period while the disposal site is in continuous operation, the asbestos-containing waste material which was deposited at the site during the operating day or previous twenty-four (24) hour period shall be covered with a resinous or petroleum-based dust suppression agent which effectively binds dust and controls wind erosion. Such agent shall be used as recommended for the particular dust by the dust suppression agent manufacturer. Other equally effective dust suppression agents may be used upon prior approval by the department. For purposes of this paragraph, waste crankcase oil is not considered a dust suppression agent.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 57:015. Beryllium emissions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of beryllium emissions.

Section 1. Applicability. The provisions of this regulation are applicable to the following stationary sources:
(1) Extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium, beryllium oxide, beryllium alloys, or beryllium-containing waste.
(2) Machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five (5) percent beryllium by weight.

Section 2. Definitions. Terms used in this section not defined herein shall have the meaning given to them in 401 KAR 57:005, or not defined therein shall have the meaning given to them in 401 KAR 50:010.
(1) "Beryllium" means the element beryllium. Where weights or concentrations are specified, such weights or concentrations apply to beryllium only, excluding the weight or concentration of any associated elements.
(2) "Extraction plant" means a facility chemically processing beryllium ore to beryllium metal alloy, or oxide, or performing any of the intermediate steps in these processes.
(3) "Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content.
(4) "Machine shop" means a facility performing cutting, grinding, turning, honing, milling, deburring, lapping, electrochemical machining, etching, or other similar operations.
(5) "Ceramic plant" means a manufacturing plant producing ceramic items.
(6) "Foundry" means a facility engaged in the melting or casting of beryllium metal or alloy.
(7) "Beryllium-containing waste" means material contaminated with beryllium and/or beryllium compounds used or generated during any process or operation performed

by a source subject to this regulation.

(8) "Incinerator" means any furnace used in the process of burning waste for the primary purpose of reducing the volume of the waste by removing combustible matter.

(9) "Propellant" means a fuel and oxidizer physically or chemically combined which undergoes combustion to provide rocket propulsion.

(10) "Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content and which contains more than 0.1 percent beryllium by weight.

(11) "Propellant plant" means any facility engaged in the mixing, casting or machining of propellants.

(12) "Classification date" means *April 6, 1973* [December 7, 1971].

Section 3. Emission Standard. (1) Emissions to the atmosphere from stationary sources subject to the provisions of this section shall not exceed ten (10) grams of beryllium over a twenty-four (24) hour period, except as provided in subsection (2) of this section.

(2) Rather than meet the requirements of subsection (1) of this section, an owner or operator may request approval from the department to meet an ambient concentration limit on beryllium in the vicinity of the stationary source of 0.01 micrograms per cubic meter, averaged over a thirty (30) day period. Approval of such requests may be granted by the department provided that:

(a) At least three (3) years of data is available which in the judgment of the department demonstrates that the future ambient concentrations of beryllium in the vicinity of the stationary source will not exceed 0.01 micrograms per cubic meter, averaged over a thirty (30) day period. Such three (3) year period shall be the three (3) years ending thirty (30) days before the classification date of this regulation.

(b) The owner or operator requests such approval in writing within thirty (30) days after the classification date of this regulation.

(c) The owner or operator submits a report to the department within forty-five (45) days after the classification date of this regulation which includes the following information:

1. Description of sampling method including the method and frequency of calibration.
2. Method of sample analysis.
3. Averaging technique for determining thirty (30) day average concentrations.
4. Number, identity, and location (address, coordinates, or distance and heading from plant) of sampling sites.
5. Ground elevations and height above ground of sampling inlets.
6. Plant and sampling area plots showing emission points and sampling sites. Topographic features significantly affecting dispersion including plant building heights and locations shall be included.
7. Information necessary for estimating dispersion including stack height, inside diameter, exit gas temperature, exit velocity or flow rate and beryllium concentrations.
8. A description of data and procedures (methods or models) used to design the air sampling network (i.e. number and location of sampling sites).
9. Air sampling data indicating beryllium concentrations in the vicinity of the stationary source for the three (3) year period specified in Section 3(2)(a). This data shall be presented chronologically and include the beryllium concentration and location of each individual sample taken by the network and the corresponding thirty (30) day average beryllium concentrations.

(d) Within sixty (60) days after receiving such report, the department shall notify the owner or operator in writing whether approval is granted or denied. Prior to denying approval to comply with the provisions of this subsection, the department will consult with representatives of the air contaminant source for which the demonstration report was submitted.

(3) The burning of beryllium and/or beryllium-containing waste, except propellants, is prohibited except in incinerators, emissions from which must comply with the standard specified in this regulation.

Section 4. Stack Sampling. (1) Each owner or operator required to comply with Section 3(1) shall test emissions from his source as set forth by the department and the U. S. Environmental Protection Agency as follows:

(a) Within ninety (90) days of the classification date of this regulation in the case of an existing source.

(b) Within ninety (90) days of startup in the case of a new source.

(2) The department shall be notified at least thirty (30) days prior to an emission test so that it may observe the tests.

(3) Samples shall be taken over such period or periods as are necessary to accurately determine the maximum emissions which will occur in any twenty-four (24) hour period. Where emissions depend upon the relative frequency of operation of different types of processes, operating hours, operating capacities, or other factors, the calculation of maximum twenty-four (24) hour period emissions shall be based on that combination of factors which are likely to occur during the subject period and which result in the maximum emissions. No changes in the operation shall be made, which would potentially increase emissions above that determined by the most recent source test, until a new emission level has been estimated by calculation and the results reported to the department.

(4) All samples shall be analyzed and beryllium emissions shall be determined within thirty (30) days after the source test. All determinations shall be reported to the department.

(5) Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.

Section 5. Air Sampling. (1) Stationary sources subject to Section 3(2) shall locate air sampling sites in accordance with a plan approved by the department. Such sites shall be located in such a manner calculated to detect maximum concentrations of beryllium in the ambient air.

(2) All monitoring sites shall be operated continuously except for a reasonable time allowance for instrument maintenance and calibration, for changing filters, or for replacement of equipment needing major repair.

(3) Filters shall be analyzed and concentrations calculated within thirty (30) days after filters are collected. Records of concentrations at all sampling sites and other data needed to determine such concentrations shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.

(4) Concentrations measured at all sampling sites shall be reported to the department every thirty (30) days.

(5) The department may at any time require changes in, or expansion of, the sampling network.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 57:020. Mercury emissions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of mercury emissions.

Section 1. Applicability. The provisions of this regulation are applicable to those stationary sources which process mercury ore to recover mercury, or use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, or incinerate or dry wastewater treatment plant sludge.

Section 2. Definitions. Terms used in this section not defined herein shall have the meaning given to them in 401 KAR 57:005 or, not defined therein, shall have the meaning given to them in 401 KAR 50:010.

(1) "Mercury" means the element mercury, excluding any associated elements, and includes mercury in particulates, vapors, aerosols, and compounds.

(2) "Mercury ore" means a mineral mined specifically for its mercury content.

(3) "Mercury ore processing facility" means a facility processing mercury ore to obtain mercury.

(4) "Condenser stack gases" mean the gaseous effluent evolved from the stack of processes utilizing heat to extract mercury metal from mercury ore.

(5) "Mercury chlor-alkali cell" means a device which is basically composed of an electrolyzer section and a denuder (decomposer) section and utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide.

(6) "Mercury chlor-alkali electrolyzer" means an electrolytic device which is part of a mercury chlor-alkali cell and utilizes a flowing mercury cathode to produce chlorine gas and alkali metal amalgam.

(7) "Denuder" means a container which is part of a mercury chlor-alkali cell and in which water and alkali metal amalgam are converted to alkali metal hydroxide, mercury, and hydrogen gas in a short-circuited, electrolytic reaction.

(8) "Hydrogen gas stream" means a hydrogen stream formed in the chlor-alkali cell denuder.

(9) "End box" means a container located on one or both ends of a mercury chlor-alkali electrolyzer which serves as a connection between the electrolyzer and denuder for rich and stripped amalgam.

(10) "End box ventilation system" means a ventilation system which collects mercury emissions from the end boxes, the mercury pump sumps, and their water collection systems.

(11) "Cell room" means a structure housing one or more mercury electrolytic chlor-alkali cells.

(12) "Sludge" means sludge produced by a treatment plant that processes municipal or industrial waste waters.

(13) "Sludge dryer" means a device used to reduce the moisture content of sludge by heating to temperatures above sixty-five (65)°C (ca. 150°F) directly with combustion gases.

(14) "Classification date" means:

(a) *April 6, 1973* [December 7, 1971] with respect to mercury ore processing facilities and mercury cell chlor-alkali plants;

(b) October *14* [25], 197*5* [4] with respect to sludge incineration plants, sludge drying plants, or a combination of these that process wastewater treatment plant sludges.

Section 3. Emissions Standard. (1) Emissions to the atmosphere from mercury ore processing facilities and mercury cell chlor-alkali plants shall not exceed 2,300 grams of mercury per twenty-four (24) hour period.

(2) Emissions to the atmosphere from sludge incineration plants, sludge drying plants, or a combination of these that process wastewater treatment plant sludges shall not exceed 3,200 grams of mercury per twenty-four (24) hour period.

Section 4. Stack Sampling. (1) Mercury ore processing facility.

(a) Each owner or operator processing mercury ore shall test emissions from his source as set forth by the U. S. Environmental Protection Agency as follows:

1. Within ninety (90) days of the classification date of this regulation in the case of an existing source.
2. Within ninety (90) days of startup in the case of a new source.

(b) The department shall be notified at least thirty (30) days prior to an emission test, so that it may observe the test.

(c) Samples shall be taken over such period or periods as are necessary to accurately determine the maximum emissions which will occur in a twenty-four (24) hour period. No changes in the operation shall be made, which would potentially increase emissions above that determined by the most recent source test, until the new emission level has been estimated by calculation and the results reported to and approved by the department.

(d) All samples shall be analyzed, and mercury emissions shall be determined within thirty (30) days after the source test. Each determination will be reported to the department.

(e) Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available, for inspection by the department for a minimum of two (2) years.

(2) Mercury chlor-alkali plant hydrogen and end-box ventilation gas streams.

(a) Each owner or operator employing mercury chlor-alkali cell(s) shall test emissions from his source as follows:

1. Within ninety (90) days of the classification date of this regulation in the case of an existing source.
2. Within ninety (90) days of startup in the case of a new source.

(b) The department shall be notified at least thirty (30) days prior to an emission test, so that it may at its option observe the test.

(c) Samples shall be taken over such period or periods as are necessary to accurately determine the maximum emissions which will occur in a twenty-four (24) hour period. No changes in the operation shall be made, which would potentially increase emissions above that determined by the most recent source test, until the new emission has been estimated by calculation and the results reported to and approved by the department.

(d) All samples shall be analyzed and mercury emissions

shall be determined within thirty (30) days after the source test. All the determinations will be reported to the department.

(e) Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.

(3) Mercury chlor-alkali plants; cell room ventilation system:

(a) Stationary sources using mercury chlor-alkali cells may test cell room emissions in accordance with paragraph (b) of this subsection or demonstrate compliance with paragraph (d) of this subsection and assume ventilation emissions of 1,300 g/day of mercury.

(b) Each owner or operator shall pass all cell room air in forced gas streams through stacks suitable for testing as set forth by the department and the U. S. Environmental Protection Agency as follows:

1. Within ninety (90) days of the classification date of this regulation in the case of an existing source.
2. Within ninety (90) days of startup in the case of a new source.

(c) The department shall be notified at least thirty (30) days prior to an emission test, so that it may at its option observe the test.

(d) An owner or operator may carry out approved design, maintenance and housekeeping practices.

(4) Sludge incineration and drying plants.

(a) Unless a waiver of emission testing is obtained under 401 KAR 57:005, Section 11, each owner or operator of a source subject to the standard in Section 3(2) of this regulation shall test emissions from that source. Such tests shall be conducted in accordance with the procedures set forth either in Sections 4(4) or 5.

(b) Method 101 in Appendix B to 40 CFR 61, filed by reference in 401 KAR 50:015, shall be used to test emissions as follows:

1. The test shall be performed within ninety (90) days of the classification date of this regulation in the case of an existing source.
2. The test shall be performed within ninety (90) days of startup in the case of a new source.

(c) The department shall be notified at least thirty (30) days prior to an emission test, so that it may at its option observe the test.

(d) Samples shall be taken over such a period or periods as are necessary to determine accurately the maximum emissions which will occur in a twenty-four (24) hour period. No changes shall be made in the operation which would potentially increase emissions above the level determined by the most recent stack test, until the new emission level has been estimated by calculation and the results reported to and approved by the department.

(e) All samples shall be analyzed, and mercury emissions shall be determined within thirty (30) days after the stack test. Each determination shall be reported to the department by a registered letter dispatched before the close of the next business day following such determination.

(f) Records of emission test results and other data needed to determine total emissions shall be retained at the source and shall be made available, for inspection by the department, for a minimum of two (2) years.

Section 5. Sludge Sampling. (1) As an alternative means for demonstrating compliance with Section 3(2), an owner or operator may use Method 105 of Appendix B to 40 CFR 61 and the procedures specified in this section.

(a) A sludge test shall be conducted within ninety (90) days of the classification date of this regulation in the case of an existing source.

(b) A sludge test shall be conducted within ninety (90) days of startup in the case of a new source.

(2) The department shall be notified at least thirty (30) days prior to a sludge sampling test, so that it may at its option observe the test.

(3) Sludge shall be sampled according to paragraph (a) of this subsection, sludge charging rate for the plant shall be determined according to paragraph (b) of this subsection, and the sludge analysis shall be performed according to paragraph (c) of this subsection.

(a) The sludge shall be sampled after dewatering and before incineration or drying, at a location that provides a representative sample of the sludge that is charged to the incinerator or dryer. Eight (8) consecutive grab samples shall be obtained at intervals of between forty-five (45) and sixty (60) minutes and thoroughly mixed into one sample. Each of the eight (8) grab samples shall have a volume of at least 200 ml but not more than 400 ml. A total of three (3) composite samples shall be obtained within an operating period of twenty-four (24) hours. When the twenty-four (24) hour operating period is not continuous, the total sampling period shall not exceed seventy-two (72) hours after the first grab sample is obtained. Samples shall not be exposed to any condition that may result in mercury contamination or loss.

(b) The maximum twenty-four (24) hour period sludge incineration or drying rate shall be determined by use of a flow rate measurement device that can measure the mass rate of sludge charged to the incinerator or dryer with an accuracy of plus or minus five (5) percent over its operating range. Other methods of measuring sludge mass charging rates may be used if they have received prior approval by the department.

(c) The handling, preparation, and analysis of sludge samples shall be accomplished according to Method 105 in Appendix B to 40 CFR 61.

(4) The mercury emissions shall be determined by use of the following equation:

$$E(Hg) = (0.001)(c)(Q)$$

where

E(Hg) = Mercury emissions, g/day.

c = Mercury concentration in the sludge on a dry solids basis, ug/g (ppm).

Q = Sludge charging rate, kg/day.

(5) No changes in the operation of a plant shall be made after a sludge test has been conducted which would potentially increase emissions above the level determined by the most recent sludge test, until the new emission level has been estimated by calculation and the results reported to and approved by the department.

(6) All sludge samples shall be analyzed for mercury content within thirty (30) days after the sludge sample is collected. Each determination shall be reported to the department by a registered letter dispatched before the close of the next business day following such determination.

(7) Records of sludge sampling, charging rate determination and other data needed to determine mercury content of wastewater treatment plant sludges shall be retained at the source and made available for inspection by the department for a minimum of two (2) years.

Section 6. Emission Monitoring. Wastewater treatment plant sludge incineration and drying plants. All such

sources for which mercury emissions exceed 1,600 g/day, demonstrated either by stack sampling according to Section 4, or sludge sampling according to Section 5, shall monitor mercury emissions at intervals of at least once per year by use of Method 105 of Appendix B to 40 CFR 61, or the procedures specified in Section 5(3) and (4). The results of monitoring shall be reported and retained according to Section 4(4)(e) and (f) or Section 5(6) and (7).

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 57:025. Beryllium rocket motor firing.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of beryllium emissions at rocket motor test sites.

Section 1. Applicability. The provisions of this regulation are applicable to rocket motor test sites.

Section 2. Definitions. Terms used in this regulation not defined herein shall have the meaning given to them in 401 KAR 57:005 or, not defined therein, shall have the meaning given to them in 401 KAR 50:010.

(1) "Rocket motor test site" means any building, structure, facility, or installation where the static test firing of a beryllium rocket motor and/or the disposal of beryllium propellant is conducted.

(2) "Beryllium propellant" means any propellant incorporating beryllium.

(3) "Classification date" means *April 6, 1973* [December 7, 1971].

Section 3. Emission Standard. (1) Emissions to the atmosphere from rocket-motor test sites shall not cause time-weighted atmospheric concentrations of beryllium to exceed seventy-five (75) microgram minutes per cubic meter of air within the limits of ten (10) to sixty (60) minutes, accumulated during any two (2) consecutive weeks, in any area in which an effect adverse to public health could occur.

(2) If combustion products from the firing of beryllium propellant are collected in a closed tank, emissions from such tank shall not exceed two (2) grams per hour and maximum of ten (10) grams per day.

Section 4. Emission Testing; Rocket Firing or Propellant Disposal. (1) Ambient air concentrations shall be measured during and after firing of a rocket motor or propellant disposal and in such a manner that the effect of these emissions can be compared with the standard. Such sampling techniques shall be approved by the department.

(2) All samples shall be analyzed and results shall be calculated within thirty (30) days after samples are taken and before any subsequent rocket motor firing or propellant disposal at the given site. All results shall be reported to the department by a registered letter dispatched before the close of the next business day following determination of such results.

(3) Records of air sampling test results and other data needed to determine integrated intermittent concentrations shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.

(4) The department shall be notified at least thirty (30) days prior to an air sampling test, so that it may at its option observe the test.

Section 5. Stack Sampling. (1) Sources subject to Section 3(2) shall be continuously sampled, during release of combustion products from the tank, in such a manner that compliance with the standards can be determined.

(2) All samples shall be analyzed and beryllium emissions shall be determined within thirty (30) days after samples are taken and before any subsequent rocket motor firing or propellant disposal at the given site. All determinations shall be reported to the department by a registered letter dispatched before the close of the next business day following such determinations.

(3) Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.

(4) The department shall be notified at least thirty (30) days prior to an emission test, so that it may at its option observe the test.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 57:030. Vinyl chloride emissions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of vinyl chloride emissions.

Section 1. Applicability. (1) This regulation applies to plants which produce:

(a) Ethylene dichloride by reaction of oxygen and hydrogen chloride with ethylene;
(b) Vinyl chloride by any process; and/or
(c) One or more polymers containing any fraction of polymerized vinyl chloride.

(2) This regulation does not apply to equipment used in research and development if the reactor used to polymerize the vinyl chloride processed in the equipment has a capacity of no more than 0.19 cubic meters (fifty (50) gal).

(3) Other than Sections 2; 5(1)(a), (2), (3), (4); 8; 9; 10; 11; and 12; this regulation does not apply to equipment used in research and development if the reactor used to polymerize the vinyl chloride processed in the equipment has a capacity of greater than 0.19 cubic meter (fifty (50) gal) and no more than 4.07 cubic meters (1,100 gal).

Section 2. Definitions. Terms used in this section not defined herein shall have the meaning given to them in 401 KAR 57:005, or not defined therein shall have the meaning given to them in 401 KAR 50:010.

(1) "Ethylene dichloride plant" includes any plant which produces ethylene dichloride by reaction of oxygen and hydrogen chloride with ethylene.

(2) "Vinyl chloride plant" includes any plant which produces vinyl chloride by any process.

(3) "Polyvinyl chloride plant" includes any plant where vinyl chloride alone or in combination with other materials is polymerized.

(4) "Slip gauge" means a gauge which has a probe that moves through the gas/liquid interface in a storage or transfer vessel and indicates the level of vinyl chloride in the vessel by the physical state of the material the gauge discharges.

(5) "Type of resin" means the broad classification of resin referring to the basic manufacturing process for producing that resin, including, but not limited to, suspension, dispersion, latex, bulk, and solution processes.

(6) "Grade of resin" means the subdivision of resin classification which describes it as a unique resin, i.e., the most exact description of a resin with no further subdivision.

(7) "Dispersion resin" means a resin manufactured in such a way as to form fluid dispersions when dispersed in a plasticizer or plasticizer/diluent mixtures.

(8) "Latex resin" means a resin which is produced by a polymerization process which initiates from free radical catalyst sites and is sold undried.

(9) "Bulk resin" means a resin which is produced by a polymerization process in which no water is used.

(10) "Inprocess wastewater" means any water which, during manufacturing or processing, comes into direct contact with vinyl chloride or polyvinyl chloride or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product containing vinyl chloride or polyvinyl chloride but which has not been discharged to a wastewater treatment process or discharged untreated as wastewater.

(11) "Wastewater treatment process" includes any process which modifies characteristics such as BOD, COD, TSS, and pH, usually for the purpose of meeting effluent guidelines and standards; it does not include any process the purpose of which is to remove vinyl chloride from water to meet requirements of this regulation.

(12) "In vinyl chloride service" means that a piece of equipment contains or contacts either a liquid that is at least ten (10) percent by weight vinyl chloride or a gas that is at least ten (10) percent by volume vinyl chloride.

(13) "Standard operating procedure" means a formal written procedure officially adopted by the plant owner or operator and available on a routine basis to those persons responsible for carrying out the procedure.

(14) "Run" means the net period of time during which an emission sample is collected.

(15) "Ethylene dichloride purification" includes any part of the process of ethylene dichloride formation and in which finished ethylene dichloride is produced.

(16) "Vinyl chloride purification" includes any part of the process of vinyl chloride production which follows vinyl chloride formation and in which finished vinyl chloride is produced.

(17) "Reactor" includes any vessel in which vinyl chloride is partially or totally polymerized into polyvinyl chloride.

(18) "Reactor opening loss" means the emissions of vinyl chloride occurring when a reactor is vented to the atmosphere for any purpose other than an emergency relief discharge as defined in Section 6(1).

(19) "Stripper" includes any vessel in which residual vinyl chloride is removed from polyvinyl chloride resin, except bulk resin, in the slurry form by the use of heat and/or vacuum. In the case of bulk resin, "stripper" includes any vessel which is used to remove residual vinyl chloride from polyvinyl chloride resin immediately following the polymerization step in the plant process flow.

(20) "Classification date" means *October 21, 1976* [December 24, 1975].

(21) "Standard temperature" means a temperature of twenty (20) °C (sixty-nine (69) °F).

(22) "Standard pressure" means a pressure of 760 mm of Hg (29.92 in. of Hg).

Section 3. Emission Standard for Ethylene Dichloride Plants. An owner or operator of an ethylene dichloride plant shall comply with the requirements of this section and Section 6.

(1) Ethylene dichloride purification: The concentration of vinyl chloride in all exhaust gases discharged to the atmosphere from any equipment used in ethylene dichloride purification is not to exceed ten (10) ppm, except as provided in Section 6(1). This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in Section 6(2)(f)1 before being opened.

(2) Oxychlorination reactor: Except as provided in Section 6(1), emissions of vinyl chloride to the atmosphere from each oxychlorination reactor are not to exceed 0.2 g/kg (0.0002 lb/lb) of the 100 percent ethylene dichloride product from the oxychlorination process.

Section 4. Emission Standard for Vinyl Chloride Plants. An owner or operator of a vinyl chloride plant shall comply with the requirements of this section and Section 6. Vinyl chloride formation and purification: The concentration of vinyl chloride in all exhaust gases discharged to the atmosphere from any equipment used in vinyl chloride formation and/or purification is not to exceed ten (10) ppm, except as provided in Section 6(1). This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in Section 6(2)(b)1 before being opened.

Section 5. Emission Standard for Polyvinyl Chloride Plants. An owner or operator of a polyvinyl chloride plant shall comply with the requirements of this section and Section 6.

(1) Reactor: The following requirements apply to reactors:

(a) The concentration of vinyl chloride in all exhaust gases discharged to the atmosphere from each reactor is not to exceed ten (10) ppm, except as provided in paragraph (b) of this subsection and Section 6(1).

(b) The reactor opening loss from each reactor is not to exceed 0.02 g vinyl chloride/kg (0.0002 lb vinyl chloride/lb) of the polyvinyl chloride product, with the product determined on a dry solids basis. This requirement applies to any vessel which is used as a reactor or as both a reactor and a stripper. In the bulk process, the product means the gross product of prepolymerization and postpolymerization.

(c) Manual vent valve discharge: Except for an emergency manual vent valve discharge, there is to be no discharge to the atmosphere from any manual vent valve on a polyvinyl chloride reactor in vinyl chloride service. An emergency manual vent valve discharge means a discharge to the atmosphere which could not have been avoided by taking measures to prevent the discharge. Within ten (10) days of any discharge to the atmosphere from any manual vent valve, the owner or operator of the source from which the discharge occurs shall submit to the department a report in writing containing information on the source, nature and cause of the discharge, the date and time of the discharge, the approximate total vinyl chloride loss during the discharge, the method used for determining the vinyl chloride loss, the action that was taken to prevent the discharge, and measures adopted to prevent future discharges.

(2) Stripper: The concentration of vinyl chloride in all exhaust gases discharged to the atmosphere from each stripper is not to exceed ten (10) ppm, except as provided in Section 6(1). This requirement does not apply to equipment that has been opened, is out of operation, and met the requirement in Section 6(2)(b)1 before being opened.

(3) Mixing, weighing, and holding containers: The concentration of vinyl chloride in all exhaust gases discharged to the atmosphere from each mixing, weighing, or holding container in vinyl chloride service which precedes the stripper (or the reactor if the plant has no stripper) in the plant process flow is not to exceed ten (10) ppm except as provided in Section 6(1). This requirement does not apply to equipment that has been opened, is out of operation, and has met the requirement in Section 6(2)(f)1 before being opened.

(4) Monomer recovery system: The concentration of vinyl chloride in all exhaust gases discharged to the atmosphere from each monomer recovery system is not to exceed ten (10) ppm, except as provided in Section 6(1). This requirement does not apply to equipment that has been opened, is out of operation, and has met the requirement in Section 6(2)(f)1 before being opened.

(5) Sources following the stripper(s): The following requirements apply to emissions of vinyl chloride to the atmosphere from the combination of all sources following the stripper(s) (or the reactor(s) if the plant has no stripper(s)) in the plant process flow including but not limited to: centrifuges, concentrators, blend tanks, filters, dryers, conveyor air discharges, baggers, storage containers, and inprocess wastewater.

(a) In polyvinyl chloride plants using stripping technology to control vinyl chloride emissions, the weighted average residual vinyl chloride concentration in all grades of polyvinyl chloride resin processed through the stripping operation on each calendar day, measured immediately after the stripping operation is completed, may not exceed:

1. 2,000 ppm for polyvinyl chloride dispersion resin, excluding latex resins;

2. 400 ppm for all other polyvinyl chloride resins, including latex resins, averaged separately for each type of resin; or

(b) In polyvinyl chloride plants controlling vinyl chloride emissions with technology other than stripping or in addition to stripping, emissions of vinyl chloride to the atmosphere may not exceed:

1. Two (2) g/kg (0.002 lb/lb) product from the stripper(s) (or reactor(s) if the plant has no stripper(s)) for dispersion polyvinyl chloride resins, excluding latex resins, with the product determined on a dry solids basis;

2. 0.4 g/kg (0.0004 lb/lb) product from the stripper(s) (or reactor(s) if the plant has no stripper(s)) for all other polyvinyl chloride resins, including latex resins, with the product determined on a dry solids basis.

Section 6. Emission Standard for Ethylene Dichloride, Vinyl Chloride, and Polyvinyl Chloride Plants. An owner or operator of an ethylene dichloride, vinyl chloride, and/or polyvinyl chloride plant shall comply with the requirements of this section.

(1) Relief valve discharge: Except for an emergency relief discharge, there is to be no discharge to the atmosphere from any relief valve on any equipment in vinyl chloride service. An emergency relief discharge means a discharge which could not have been avoided by taking measures to prevent the discharge. Within ten (10) days of any relief valve discharge, the owner or operator of the source from which the relief valve discharge occurs shall submit to the department a report in writing containing information on the source, nature and cause of the discharge, the date and time of the discharge, the approximate total vinyl chloride loss during the discharge, the method used for determining the vinyl chloride loss, the action that was taken to prevent the discharge, and measures adopted to prevent future discharges.

(2) Fugitive emission sources:

(a) Loading and unloading lines: Vinyl chloride emissions from loading and unloading lines in vinyl chloride service which are opened to the atmosphere after each loading or unloading operation are to be minimized as follows:

1. After each loading or unloading operation and before opening a loading or unloading line to the atmosphere, the quantity of vinyl chloride in all parts of each loading or unloading line that are to be opened to the atmosphere is to be reduced so that the parts combined contain no greater than 0.0038 cubic meters (0.13 cubic feet) of vinyl chloride at standard temperature and pressure; and,

2. Any vinyl chloride removed from a loading or unloading line in accordance with subparagraph 1. of this paragraph is to be ducted through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

(b) Slip gauges: During loading or unloading operations, the vinyl chloride emissions from each slip gauge in vinyl chloride service are to be minimized by ducting any vinyl chloride discharged from the slip gauge through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

(c) Leakage from pump, compressor, and agitator seals:

1. Rotating pumps: Vinyl chloride emissions from seals on all rotating pumps in vinyl chloride service are to be minimized by installing sealless pumps, pumps with double mechanical seals, or equivalent as provided in Section 7. If double mechanical seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the

pressure between the two (2) seals so that any leak that occurs is into the pump by ducting any vinyl chloride between the two (2) seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

2. Reciprocating pumps: Vinyl chloride emissions from seals on all reciprocating pumps vinyl chloride service are to be minimized by installing double outboard seals, or equivalent as provided in Section 7. If double outboard seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two (2) seals so that any leak that occurs is into the pump, by ducting any vinyl chloride between the two seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

3. Rotating compressors: Vinyl chloride emissions from seals on all rotating compressors in vinyl chloride service are to be minimized by installing compressors with double mechanical seals, or equivalent as provided in Section 7. If double mechanical seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two (2) seals so that any leak that occurs is into the compressor by ducting any vinyl chloride between the two (2) seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

4. Reciprocating compressors: Vinyl chloride emissions from seals on all reciprocating compressors in vinyl chloride service are to be minimized by installing double outboard seals, or equivalent as provided in Section 7. If double outboard seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two (2) seals so that any leak that occurs is into the compressor by ducting any vinyl chloride between the two (2) seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm or equivalent as provided in Section 7.

5. Agitators: Vinyl chloride emissions from seals on all agitators in vinyl chloride service are to be minimized by installing agitators with double mechanical seals, or equivalent as provided in Section 7. If double mechanical seals are used, vinyl chloride emissions from the seals are to be minimized by maintaining the pressure between the two (2) seals so that any leak, that occurs is into the agitated vessel, by ducting any vinyl chloride between the two (2) seals through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

(d) Leakage from relief valves: Vinyl chloride emissions due to leakage from each relief valve on equipment in vinyl chloride service are to be minimized by installing a rupture disk between the equipment and the relief valve, by connecting the relief valve discharge to a process line or recovery system, or equivalent as provided in Section 7.

(e) Manual venting of gases: Except as provided in Section 5(1)(c), all gases which are manually vented from equipment in vinyl chloride service are to be ducted through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

(f) Opening of equipment: Vinyl chloride emissions from opening of equipment (including loading or unloading lines that are not opened to the atmosphere after each loading or unloading operation) are to be minimized as follows:

1. Before opening any equipment for any reason, the quantity of vinyl chloride is to be reduced so that the equipment contains no more than 2.0 percent by volume vinyl chloride or 0.0950 cubic meter (twenty-five (25) gallon) of vinyl chloride, whichever is larger, at standard temperature and pressure; and

2. Any vinyl chloride removed from the equipment in accordance with subparagraph 1 of this paragraph is to be ducted through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

(g) Samples: Unused portions of samples containing at least ten (10) percent by weight vinyl chloride are to be returned to the process and sampling techniques are to be such that sample containers in vinyl chloride service are purged into a closed process system.

(h) Leak detection and elimination: Vinyl chloride emissions due to leaks from equipment in vinyl chloride service are to minimized by instituting and implementing a formal leak detection and elimination program. The owner or operator shall submit a description of the program to the department for approval. The program is to be submitted within forty-five (45) days of the classification date of these regulations, unless a waiver of compliance is granted under 401 KAR 57:005, Section 9. If a waiver of compliance is granted, the program is to be submitted on a date scheduled by the department. Approval of a program will be granted by the department provided:

1. It includes a reliable and accurate vinyl chloride monitoring system for detection of major leaks and identification of the general area of the plant where a leak is located. A vinyl chloride monitoring system means a device which obtains air samples from one or more points on a continuous sequential basis and analyzes the samples with gas chromatography or, if the owner or operator assumes that all hydrocarbons measured are vinyl chloride, with infrared spectrophotometry flame ion detection, or an equivalent or alternative method.

2. It includes a reliable and accurate portable hydrocarbon detector to be used routinely to find small leaks and to pinpoint the major leaks indicated by the vinyl chloride monitoring system. A portable hydrocarbon detector means a device which measures hydrocarbons with a sensitivity of at least ten (10) ppm and is of such design and size that it can be used to measure emissions from localized points.

3. It provides for an acceptable calibration and maintenance schedule for the vinyl chloride monitoring system and portable hydrocarbon detector. For the vinyl chloride monitoring system, a daily span check is to be conducted with a concentration of vinyl chloride equal to the concentration defined as a leak according to Section 6(2)(h)6. The calibration is to be done with either a calibration gas mixture prepared from the gases specified in Sections 5.2.1 and 5.2.3 of Test Method 106 and in accordance with Section 7.1 of Test Method 106 in Appendix B to 40 CFR 61, filed by reference in 401 KAR 50:015, or a calibration gas cylinder containing the appropriate concentration of vinyl chloride. The gas composition of the calibration gas cylinder standard is to have been certified by the manufacturer. The manufacturer must have recommended a maximum shelf life for each cylinder so that the concentration does not change greater than plus or minus five (5) percent from the certified value. The date of gas cylinder preparation, certified vinyl chloride concentration and recommended maximum shelf life must have been affixed

to the cylinder before shipment from the manufacturer to the buyer. If a gas chromatograph is used as the vinyl chloride monitoring system, these gas mixtures may be directly used to prepare a chromatograph calibration curve as described in Section 7.3 of Test Method 106. The requirements in Section 5.2.3.1 and 5.2.3.2 of Test Method 106 for certification of cylinder standards and for establishment and verification of calibration standards are to be followed.

4. The location and number of points to be monitored and the frequency of monitoring provided for in the program are acceptable when they are compared with the number of pieces of equipment in vinyl chloride service and the size and physical layout of the plant.

5. It contains an acceptable plan of action to be taken when a leak is detected.

6. It contains a definition of leak which is acceptable when compared with the background concentration of vinyl chloride in the areas of the plant to be monitored by the vinyl chloride monitoring system. Measurements of background concentrations of vinyl chloride in the areas of the plant to be monitored by the vinyl chloride monitoring system are to be included with the description of the program. The definition of leak for a given plant may vary among the different areas within the plant and is also to change over time as background concentrations in the plant are reduced.

(i) Inprocess wastewater: Vinyl chloride emissions to the atmosphere from inprocess wastewater are to be reduced as follows:

1. The concentration of vinyl chloride in each inprocess wastewater stream containing greater than ten (10) ppm vinyl chloride measured immediately as it leaves a piece of equipment and before being mixed with any other inprocess wastewater stream is to be reduced to no more than ten (10) ppm by weight before being mixed with any other inprocess wastewater stream which contains less than ten (10) ppm vinyl chloride; before being exposed to the atmosphere; before being discharged to a wastewater treatment process; or before being discharged untreated as a wastewater. This paragraph does apply to water which is used to displace vinyl chloride from equipment before it is opened to the atmosphere in accordance with Sections 5(1)(b) or 6(2)(f), but does not apply to water which is used to wash out equipment after the equipment has already been opened to the atmosphere in accordance with Sections 5(1)(b) or 6(2)(f).

2. Any vinyl chloride removed from the inprocess wastewater in accordance with subparagraph 1 of this paragraph is to be ducted through a control system from which the concentration of vinyl chloride in the exhaust gases does not exceed ten (10) ppm, or equivalent as provided in Section 7.

(3) The requirements in Section 6(2)(a), (b), (e), (f), (g) and (h) are to be incorporated into a standard operating procedure, and made available upon request for inspection by the department. The standard operating procedure is to include provisions for measuring the vinyl chloride in equipment greater than or equal to 4.75 cubic meters (1,250 gal) in volume for which an emission limit is prescribed in Section 6(2)(f)1; prior to opening the equipment and using Test Method 106, a portable hydrocarbon detector, or an equivalent or alternative method. The method of measurement is to meet the requirements in Section 8(6)(e)1 and 2.

Section 7. Equivalent Equipment and Procedures. Upon written application from an owner or operator, the department may approve use of equipment or procedures which have been demonstrated to its satisfaction to be equivalent in terms of reducing vinyl chloride emissions to the atmosphere to those prescribed for compliance with a specific section of this regulation. For an existing source, any request for using an equivalent method as the initial measure of control is to be submitted to the department within thirty (30) days of the classification date. For a new source, any request for using an equivalent method is to be submitted to the department with the application for approval of construction or modification required by 401 KAR 50:035.

Section 8. Emission Test. (1) Unless a waiver of emission testing is obtained under 401 KAR 57:005, Section 11, the owner or operator of a source to which this regulation applies shall test emissions from this source:

(a) Within ninety (90) days of the classification date in the case of an existing source.

(b) Within ninety (90) days of startup in the case of a new source.

(2) The owner or operator shall provide the department at least thirty (30) days prior to notice of an emission test to afford the department the opportunity to have an observer present during the test.

(3) Any emission test is to be conducted while the equipment being tested is operating at the maximum production rate at which the equipment will be operated and under other relevant conditions as may be specified by the department based on representative performance of the source.

(4) When at all possible, each sample is to be analyzed within twenty-four (24) hours but in no case in excess of seventy-two (72) hours of sample collection. Vinyl chloride emissions are to be determined within thirty (30) days after the emission test. The owner or operator shall report the determinations to the department by a registered letter dispatched before the close of the next business day following the determination.

(5) The owner or operator shall retain at the plant and make available, upon request, for inspection by the department for a minimum of two (2) years records of emission test results and other data needed to determine emissions.

(6) Unless otherwise specified, the owner or operator shall use the tests as approved by 401 KAR 57:005, Section 12, for each test as required by this subsection unless an equivalent method or an alternative method has been approved by the department and the U. S. Environmental Protection Agency. If the results of the reference and equivalent or alternative methods do not agree, the results obtained by the reference method prevail, and the department may notify the owner or operator that approval of the method previously considered to be equivalent or alternative is withdrawn.

(a) Test Method 106 is to be used to determine the vinyl chloride emissions from any source for which an emission limit is prescribed in Sections 3(1) or (2); 4; 5(1)(a), (2), (3) or (4); or from any control system to which reactor emissions are required to be ducted in Section 5(1)(b) or which fugitive emissions are required to be ducted in Section 6(2)(a)2, (2)(b) and (e), (2)(f)2, and (2)(i)2.

1. For each run, one (1) sample is to be collected. The sampling site is to be at least two (2) stack or duct diameters downstream and one-half (½) diameter upstream from any flow disturbance such as a bend, expansion, contraction, or visible flame. For a rectangular cross section an equivalent diameter is to be determined from the following equation:

$$\text{equivalent diameter} = \frac{2\,(\text{length})\,(\text{width})}{\text{length} + \text{width}}$$

The sampling point in the duct is to be at the center of the cross section. The sample is to be extracted at a rate proportional to the gas velocity at the sampling point. The sample is to be taken over a minimum of one (1) hour, and is to contain a minimum volume of fifty (50) liters corrected to standard conditions.

2. Each emission test is to consist of three (3) runs. For the purpose of determining emissions, the average of results of all runs is to apply. The average is to be computed on a time weighted basis.

3. For gas streams containing more than ten (10) percent oxygen, the concentration of vinyl chloride as determined by Test Method 106 is to be corrected to ten (10) percent oxygen (dry basis) for determination of emissions by using the equation which is Appendix A to this regulation.

4. For those emission sources where the emission limit is prescribed in terms of mass rather than concentration, mass emissions in kg/100 kg product are to be determined by using the equation which is Appendix B to this regulation.

(b) Test Method 107 is to be used to determine the concentration of vinyl chloride in each inprocess wastewater stream for which an emission limit is prescribed in Section 6(2)(i)1.

(c) Where a stripping operation is used to attain the emission limit in Section 5(5), emissions are to be determined using Test Method 107 as follows:

1. The number of strippers and samples and the types and grades of resin to be sampled are to be determined by the department for each individual plant at the time of the test based on the plant's operation.

2. Each sample is to be taken immediately following the stripping operation.

3. The corresponding quantity of material processed by each stripper is to be determined on a dry solids basis and by a method submitted to and approved by the department.

4. At the prior request of the department the owner or operator shall provide duplicates of the samples required in subparagraph 1. of this paragraph.

(d) Where control technology other than or in addition to a stripping operation is used to attain the emission limit in Section 5(5), emissions are to be determined as follows:

1. Test Method 106 is to be used to determine atmospheric emissions from all of the process equipment simultaneously. The requirements of subsection (6)(a) are to be met.

2. Test Method 107 is to be used to determine the concentration of vinyl chloride in each inprocess wastewater stream subject to the emission limit prescribed in Section 5(5). The mass of vinyl chloride in kg/100 kg produce in each inprocess wasterwater stream is to be determined by using the equation which is Appendix C to this regulation.

(e) The reactor opening loss for which an emission limit is prescribed in Section 5(1)(b) is to be determined. The number of reactors for which the determination is to be made is to be specified by the department for each individual plant at the time of the determination based on the plant's operation. For a reactor that is also used as a stripper, the determination may be made immediately following the stripping operation. Except as provided in subparagraph 2 of this paragraph the reactor opening loss is to be determined using the equation which is Appendix D to this regulation.

1. If Method 106 is used to determine the concentration of vinyl chloride the sample is to be withdrawn at a constant rate with a probe of sufficient length to reach the vessel bottom from the manhole. Samples are to be taken for five (5) minutes within six (6) inches of the vessel bottom, five (5) minutes near the vessel center, and five (5) minutes near the vessel top.

2. If the portable hydrocarbon detector is used to determine the concentration of vinyl chloride (Cb), a probe of sufficient length to reach the vessel bottom from the manhole is to be used to make measurements. One (1) measurement will be made within six (6) inches of the vessel bottom, one (1) near the vessel center, and one (1) near the vessel top. Measurements are to be made at each location until the reading is stabilized. All hydrocarbons measured are to be assumed to be vinyl chloride.

3. The production rate of polyvinyl chloride (Z) is to be determined by a method submitted to and approved by the department.

Section 9. Emission Monitoring. (1) A vinyl chloride monitoring system is to be used to monitor on a continuous basis the emissions from the sources for which emission limits are prescribed in Sections 3(1) and (2); 4; 5(1)(a), (2), (3) and (4), and for any control system to which reactor emissions are required to be ducted in Section 5(1)(b) or to which fugitive emissions are required to be ducted in Section 6(2)(a)2, (2)(b) and (e), (2)(f)2 and (2)(i)2.

(2) The vinyl chloride monitoring system(s) used to meet the requirement in subsection (1) of this section is to be a device which obtains air samples from one or more points on a continuous sequential basis and analyses the samples with gas chromotography or, if the owner or operator assumes that all hydrocarbons measured are vinyl chloride, the infrared spectrophotometry, flame ion detection, or an equivalent or alternative method. The vinyl chloride monitoring system used to meet the requirements in Section (6)(2)(h)1 may be used to meet the requirements of this section.

(3) A daily span check is to be conducted for each vinyl chloride monitoring system used. For all of the emission sources listed in subsection (1) of this section, except the one for which an emissions limit is prescribed in Section 3(2), the daily span check is to be conducted with a concentration of vinyl chloride equal to ten (10) ppm. For the emission source for which an emission limit is prescribed in Section 3(2) the daily span check is to be conducted with a concentration of vinyl chloride which is determined to be equivalent to the emission limit for that source based on the emission test required by Section 8. The calibration is to be done with either:

(a) A calibration gas mixture prepared from the gases specified in Sections 5.2.1 and 5.2.3 of Test Method 106 and in accordance with Section 7.1 of Test Method 106; or

(b) A calibration gas cylinder containing the appropriate concentration of vinyl chloride. The gas composition of the calibration gas cylinder standard is to have been certified by the manufacturer. The manufacturer must have recommended a maximum shelf life for each cylinder so that the concentration does not change greater than plus or minus five (5) percent from the certified value. The date of gas cylinder preparation, certified vinyl chloride preparation, certified vinyl chloride concentration and recommended maximum shelf life must have been affixed to the cylinder before shipment from the manufacturer to the buyer. If a gas chromatograph is used as the vinyl chloride monitoring system, these gas mixtures may be directly used to prepare a chromatograph calibration curve as described in Section 7.3 of Test Method 106. The requirements in Sections 5.2.3.1 and 5.2.3.2 of Test Method 106 for cer-

tification of cylinder standards and for establishment and verification of calibration standards are to be followed.

Section 10. Initial Report. (1) An owner or operator of any source to which this regulation applies shall submit a statement in writing notifying the department that the equipment and procedural specifications in Section 6(2)(a), (b), (c), (d), (e), (f), (g) and (h) are being implemented.

(2) In the case of an existing source, the statement is to be submitted within ninety (90) days of the classification date, unless a waiver of compliance is granted under 401 KAR 57:005, Section 9, along with the information required under 401 KAR 57:005, Section 8. If a waiver of compliance is granted, the statement is to be submitted on a date scheduled by the department. In the case of a new source, the statement is to be submitted within ninety (90) days of the initial startup date.

(3) The statement is to contain the following information:

(a) A list of the equipment installed for compliance.

(b) A description of the physical and functional characteristics of each piece of equipment.

(c) A description of the methods which have been incorporated into the standard operating procedures for measuring or calculating the emissions for which emission limits are prescribed in Section 6(2)(a)1 and (f)1.

(d) A statement that each piece of equipment is installed and that each piece of equipment and each procedure is being used.

Section 11. Semiannual Report. (1) The owner or operator of any source to which this regulation applies shall submit to the department on September 15 and March 15 of each year a report in writing containing the information required by this section. The first semiannual report is to be submitted following the first full six (6) months reporting period after the initial report is submitted.

(2) In the case of an existing source, the first report is to be submitted within 180 days of the classification date, unless a waiver of compliance is granted under 401 KAR 57:005, Section 9. If a waiver of compliance is granted, the first report is to be submitted on a date scheduled by the department. In the case of a new source, the first report is to be submitted within 180 days of the initial startup date.

(3) Unless otherwise specified, the owner or operator shall use the test methods approved by 401 KAR 57:005, Section 12, to conduct emission tests as required by subsections (5) and (6) of this section, unless an equivalent or alternative method has been approved by the department and the U. S. Environmental Protection Agency. If the results of the reference and equivalent or alternative methods do not agree, the results obtained by the reference method prevail, and the department may notify the owner or operator that approval of the method previously considered to be equivalent or alternative is withdrawn.

(4) The owner or operator shall include in the report a record of any emissions which averaged over any hour period (commencing on the hour) are in excess of the emission limits prescribed in Sections 3(1) or (2); 4; or 5(1)(a), (2), (3) or (4), or for any control system to which reactor emissions are required to be ducted in Section 5(1)(b) or to which fugitive emissions are required to be ducted in Section 6(2)(a)2, (b) and (e), (f)2, and (i)2. The emissions are to be measured in accordance with Section 9.

(5) In polyvinyl chloride plants for which a stripping operation is used to attain the emission level prescribed in Section 5(5), the owner or operator shall include in the report a record of the vinyl chloride content in the polyvinyl chloride resin. Test Method 107 is to be used to determine vinyl chloride content as follows:

(a) If batch stripping is used, one (1) representative sample of polyvinyl chloride resin is to be taken from each batch of each grade of resin immediately following the completion of the stripping operation and identified by the resin type and grade and the date and time the batch is completed. The corresponding quantity of material processed in each stripper batch is to be recorded and identified by resin type and grade and the date and time the batch is completed.

(b) If continuous stripping is used, one (1) representative sample of polyvinyl chloride resin is to be taken for each grade of resin processed or at intervals of eight (8) hours for each grade of resin which is being processed, whichever is more frequent. The sample is to be taken as the resin flows out of the stripper and identified by the resin type and grade and the date and time the sample was taken. The corresponding quantity of material processed by each stripper over the time period represented by the sample during the eight (8) hour period, is to be recorded and identified by resin type and grade and the date and time it represents.

(c) The quantity of material processed by the stripper is to be determined on a dry solids basis and by a method submitted to and approved by the department.

(d) At the prior request of the department, the owner or operator shall provide duplicates of the samples required in paragraphs (a) and (b) of this subsection.

(e) The report to the department by the owner or operator is to include the vinyl chloride content found in each sample required in paragraphs (a) and (b) of this subsection, averaged separately for each type of resin, over each calendar day and weighted according to the quantity of each grade of resin processed by the stripper(s) that calendar day, according to the equation which is Appendix E to this regulation.

(f) The owner or operator shall retain at the source and make available for inspection by the department for a minimum of two (2) years, records of all data needed to furnish the information required in paragraph (e) of this subsection. The records are to contain the following information:

1. The vinyl chloride content found in all the samples required in paragraphs (a) and (b), identified by the resin type and grade and the time and date of the sample; and

2. The corresponding quantity of polyvinyl chloride resin processed by the stripper(s), identified by the resin type and grade and the time and date it represents.

(g) The owner or operator shall include in the report a record of the emissions from each reactor opening for which an emission limit is prescribed in Section 5(1)(b). Emissions are to be determined in accordance with Section 8(6)(e), except that emissions for each reactor are to be determined. For a reactor that is also used as a stripper, the determination may be made immediately following the stripping operation.

Section 12. Recordkeeping. The owner or operator of any source to which this regulation applies shall retain the following information at the source and make it available for inspection by the department for a minimum of two (2) years:

(1) A record of the leaks detected by the vinyl chloride monitoring system, as required by Section 6(2)(h), including the concentrations of vinyl chloride as measured, analyzed, and recorded by the vinyl chloride detector, the location of each measurement and the date and approximate time of each measurement.

(2) A record of the leaks detected during the routine monitoring with the portable hydrocarbon detector and the action taken to repair the leaks, as required by Section 6(2)(h), including a brief statement explaining the location and cause of each leak detected with the portable hydrocarbon detector, the date and time of the leak and any action taken to eliminate that leak.

(3) A record of emissions measured in accordance with Section 9.

(4) A daily operating record for each polyvinyl chloride reactor, including pressures and temperatures.

Section 13. 401 KAR 3:040 is hereby repealed.

APPENDIX A TO 401 KAR 57:030 DETERMINATION OF OXYGEN CORRECTED VINYL CHLORIDE CONCENTRATIONS

$$C_{b(corrected)} = C_b \frac{10.9}{20.9 - \text{percent } O_2}$$

Where:

$C_{b(corrected)}$ = The concentration of vinyl chloride in the exhaust gases, corrected to 10 percent oxygen.

C_b = The concentration of vinyl chloride as measured by Test Method 106.

20.9 = Percent oxygen in the ambient air at standard conditions.

10.9 = Percent oxygen in the ambient air at standard conditions, minus the 10 percent oxygen to which the correction is being made.

Percent O_2 = Percent oxygen in the exhaust gas as measured by Reference Method 3 in Appendix A of 40 CFR 60.

APPENDIX B TO 401 KAR 57:030 CONVERSION OF VINYL CHLORIDE CONCENTRATION TO VINYL CHLORIDE MASS

$$C_{BX} = \frac{(C_b\ (2.60)\ Q\ 10^{-6})\ (100)}{Z}$$

Where:

C_{BX} = kg vinyl chloride/100 kg product.

C_b = The concentration of vinyl chloride as measured by Test Method 106.

2.60 = Density of vinyl chloride at one atmosphere and 20°C in kg/m³.

Q = Volumetric flow rate in m³/hr as determined by Reference Method 2 of Appendix A to 40 CFR 60.

10^{-6} = Conversion factor for ppm.

Z = Production rate (kg/hr).

APPENDIX C TO 401 KAR 57:030 DETERMINATION OF VINYL CHLORIDE MASS IN A WASTEWATER STREAM

$$C_{BX} = \frac{(C_d\ R\ 10^{-6})\ (100)}{Z}$$

Where:

C_{BX} = kg vinyl chloride/100 kg product.

C_d = the concentration of vinyl chloride as measured by Test Method 107.

R = water flow rate in lb/hour, determined in accordance with a method which has been submitted to and approved by the department.

10^{-6} = Conversion factor for ppm.

Z = production rate (kg/hr) determined in accordance with a method which has been submitted to and approved by the department.

APPENDIX D TO 401 KAR 57:030 DETERMINATION OF VINYL CHLORIDE REACTOR OPENING LOSS

$$C = \frac{W\ (2.60)\ (10^{-6})\ (C_b)}{YZ}$$

Where:

C = kg vinyl chloride emissions/kg product.

W = Capacity of the reactor in m³.

2.60 = Density of vinyl chloride at one atmosphere and 20°C in kg/m³.

10^{-6} = Conversion factor for ppm.

C_b = ppm by volume vinyl chloride as determined by Test Method 106 or portable hydrocarbon detector which measures hydrocarbons with a sensitivity of at least 10 ppm.

Y = Number of batches since the reactor was last opened to the atomosphere.

Z = Average kg of polyvinyl chloride produced per batch in the number of batches since the reactor was last opened to the atmosphere.

APPENDIX E TO 401 KAR 57:030 DETERMINATION OF VINYL CHLORIDE CONTENT

$$C_T = \frac{\sum_{G=1}^{n} P_G M_G}{Q_T}$$

Where:

C_T = 24-hour concentration of type T resin in ppm (dry weight basis).

Q_T = Total production of type T resin over the 24-hour period, in kg.

P_G = Production of Grade G resin in the sample, in kg.

M_G = Concentration of vinyl chloride in one sample of grade G resin in ppm.

n = Total number of grades of type T resin produced during the 24-hour period.

C_T is to be calculated and reported for each type of resin produced in the 24-hour period.

EUGENE F. Mooney, Secretary

ADOPTED: March 26, 1979

RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:005. General Provisions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to new sources.

Section 1. Applicability. The provisions of this chapter shall apply to the owner or operator of any new source for which a standard of performance has been promulgated under this chapter.

Section 2. Performance Tests. (1) Within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the department, the owner or operator of any affected facility except those affected facilities specified below shall conduct performance test(s) according to 401 KAR 50:045 and furnish the department a written report of the results of such performance test(s).

(a) Process operation with a process weight rate of less than 100 tons per hour;

(b) Indirect heat exchanger of 250 million BTU heat input per hour or less;

(c) Incinerator with a charging rate of forty-five (45) metric tons per day (fifty (50) tons/day) or less;

(d) Affected facilities specified in 401 KAR 59:046, 401 KAR 59:050, [401 KAR 59:075,] 401 KAR 59:090, 401 KAR 59:095, 401 KAR 59:101, 401 KAR 59:175, *401 KAR 59:180, 401 KAR 59:185, 401 KAR 59:190,* [and] 401 KAR 59:195, *401 KAR 59:200, 401 KAR 59:210, 401 KAR 59:215, and 401 KAR 59:220.*

(2) The department may require the owner or operator of any affected facility including those specified in subsection (1) of this section to conduct performance test(s) according to 401 KAR 50:045 and furnish a written report of the results of such performance test(s).

Section 3. Notification and Recordkeeping. Nothing in this section shall relieve the owner or operator from the responsiblity of obtaining the appropriate permits required by 401 KAR 50:035.

(1) Any owner or operator subject to the provisions of this regulation shall furnish the department written notification as follows:

(a) A notification of the date of construction, reconstruction, or modification of an affected facility is commenced, postmarked not later than thirty (30) days after such date;

(b) A notification of the anticipated date of initial startup of an affected facility postmarked not more than sixty (60) d[illegible]ess than thirty (30) days prior to such date;

[illegible]cation of the actual date of initial startup of [illegible]acility postmarked within fifteen (15) days [illegible];

(d) A notification of any physical or operational change to an affected facility which may increase the emission rate of any air pollutant to which a standard applies. This notice shall be postmarked sixty (60) days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The department may request additional relevant information subsequent to this notice;

(e) A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with Section 4(3). Notifications shall be postmarked not less than thirty (30) days prior to such date.

(2) Any owner or operator subject to the provisions of this chapter shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(3) Each owner or operator required to install a continuous monitoring system shall submit for every calendar quarter a written report of excess emissions (as defined in applicable sections) to the department. Both a printed report and computer tape or cards shall be furnished in the format specified by the department. All quarterly reports shall be postmarked by the thirtieth (30th) day following the end of each calendar quarter and shall include the following information:

(a) The magnitude of excess emissions computed in accordance with Section 4(8), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions;

(b) All hourly averages shall be reported for sulfur dioxide and nitrogen oxides monitors. The hourly averages shall be made available on computer tape or cards;

(c) Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted;

(d) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments;

(e) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.

(4) Any owner or operator subject to the provisions of this chapter shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurement; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance peformed on these systems or devices; and all other information required by this chapter recorded in a permanent form suitable for inspection. The file shall be retained for at least two (2) years following the date of such measurements, maintenance, reports, and records.

Section 4. Monitoring Requirements. (1) All continuous monitoring systems required under the regulations of this chapter shall be subject to the provisions of this section

upon promulgation of performance specifications for continuous monitoring system under Appendix B of 40 CFR 60, filed by reference in 401 KAR 50:015, unless:

(a) The continuous monitoring system is subject to the provisions of subsection (3)(b) and (c) of this section; or

(b) Otherwise specified in an applicable regulation or by the department.

(2) All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under Section 2. Verification of operational status shall, as a minimum, consist of the following:

(a) For continuous monitoring systems referenced in subsection (3)(a) of this section, completion of the conditioning period specified by applicable requirements in Appendix B to 40 CFR 60;

(b) For continuous monitoring systems referenced in subsection (3)(b) of this section, completion of seven (7) days of operation;

(c) For monitoring devices referenced in applicable regulations, completion of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.

(3) During any performance tests required under Section 2 or within thirty (30) days thereafter and at such other times as may be required by the department, the owner or operator of any affected facility shall conduct continuous monitoring system performance evaluations and furnish the department within sixty (60) days thereof a copy of a written report of the results of such tests. These continuous monitoring system performance evaluations shall be conducted in accordance with the following specifications and procedures:

(a) Continuous monitoring systems listed within this paragraph except as provided in paragraph (b) of this subsection shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of Appendix B to 40 CFR 60 as follows:

1. Continuous monitoring systems for measuring opacity of emissions shall comply with Performance Specification 1;

2. Continuous monitoring systems for measuring nitrogen oxides emissions shall comply with Performance Specification 2;

3. Continuous monitoring systems for measuring sulfur dioxide emissions shall comply with Performance Specification 2;

4. Continuous monitoring systems for measuring the oxygen content or carbon dioxide content of effluent gases shall comply with Performance Specification 3.

(b) An owner or operator who, prior to September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components or who, prior to October 6, 1975, installed continuous monitoring equipment, shall comply with the following requirements:

1. Continuous monitoring systems for measuring opacity of emissions shall be capable of measuring emission levels within plus or minus twenty (20) percent with a confidence level of ninety-five (95) percent. The Calibration Error Test and associated calculation procedures set forth in Performance Specification 1 of Appendix B to 40 CFR 60 shall be used for demonstrating compliance with this specification;

2. Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide shall be capable of measuring emission levels within plus or minus twenty (20) percent with a confidence level of ninety-five (95) percent. The Calibration Error Test, the Field Test for Accuracy (Relative), and associated operating and calculation procedures set forth in Appendix B to 40 CFR 60 shall be used for demonstrating compliance with this specification;

3. Owners or operators of all continuous monitoring systems installed on an affected facility prior to October 6, 1975, may be required to conduct tests under subparagraphs 1. and/or 2. of this paragraph if so requested by the department.

(c) All continuous monitoring systems referenced by paragraph (b) of this subsection shall be upgraded or replaced (if necessary) with new continuous monitoring systems, and the new or improved systems shall be demonstrated to comply with applicable performance specifications under paragraph (a) of this subsection on or before September 11, 1979.

(4) Owners or operators of all continuous monitoring systems installed in accordance with the provisions of this regulation shall check the zero and span drift at least once daily in accordance with the method prescribed by the manufacturer of such systems unless the manufacturer recommends adjustments at shorter intervals, in which case such recommendations shall be followed. The zero and span shall, as a minimum, be adjusted whenever the twenty-four (24) hour zero drift or twenty-four (24) hour calibration drift limits of the applicable performance specifications in Appendix B to 40 CFR 60 are exceeded. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero or span drift adjustments except that, for systems using automatic zero adjustments, the optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds four (4) percent opacity. Unless otherwise approved by the department, the following procedures, as applicable, shall be followed:

(a) For extractive continuous monitoring systems measuring gases, minimum procedures shall include introducing applicable zero and span gas mixtures into the measurement system as near the probe as is practical. Span and zero gases certified by their manufacturer to be traceable to National Bureau of Standards reference gases shall be used whenever these reference gases are available. The span and zero gas mixtures shall be the same composition as specified in Appendix B to 40 CFR 60. Every six (6) months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses with Reference Method 6 for sulfur dioxide, Reference Method 7 for nitrogen oxides, and Reference Method 3 for oxygen and carbon dioxide;

(b) For non-extractive continuous monitoring systems measuring gases, minimum procedures shall include upscale check(s) using a certified calibration gas cell or test cell which is functionally equivalent to a known gas concentration. The zero check may be performed by computing the zero value from upscale measurements or by mechanically producing a zero condition;

(c) For continuous monitoring systems measuring opacity of emissions, minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.

(5) Except for system breakdowns, repairs, calibration

checks, and zero and span adjustments required under subsection (4) of this section, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(a) All continuous monitoring systems referenced by subsection (3)(a) and (b) for measuring opacity of emissions shall complete a minimum of one (1) cycle of sampling and analyzing for each successive ten (10) second period and one (1) cycle of data recording for each successive six (6) minute period;

(b) All continuous monitoring systems referenced by subsection (3)(a) of this section for measuring oxides of nitrogen sulfur dioxide, carbon dioxide, or oxygen shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive fifteen (15) minute period;

(c) All continuous monitoring systems referenced by subsection (3)(b) of this section, except opacity, shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive one (1) hour period.

(6) All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of Appendix B to 40 CFR 60 shall be used.

(7) When the effluents from a single affected facility or two (2) or more affected facilities subject to the same emission standard are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one (1) affected facility is released to the atmosphere through more than one (1) point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the department.

(8) Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six (6) minute averages and for systems other than opacity to one (1) hour averages. Six (6) minute opacity averages shall be calculated from twenty-four (24) or more data points equally spaced over each six (6) minute period. For systems other than opacity, one (1) hour averages shall be computed from four (4) or more data points equally spaced over each one (1) hour period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this subsection. An arithmetic or integrated average of all data may be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form (e.g. ppm pollutant and percent oxygen or lb/million BTU of pollutant). All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in regulations within this chapter. After conversion into units of the standard the data may be rounded to the same number of significant digits used in the regulation to specify the applicable standard (e.g. rounded to the nearest one (1) percent opacity).

(9) Upon written application by an owner or operator, the department may allow alternative monitoring procedures or requirements which have been approved by the U. S. Environmental Protection Agency including, but not limited to the following:

(a) Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this chapter would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases;

(b) Alternative monitoring requirements when the affected facility is infrequently operated;

(c) Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct stack moisture conditions;

(d) Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements;

(e) Alternative methods of converting pollutant concentration measurements to units of the standards;

(f) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells;

(g) Alternatives to the A.S.T.M. test methods, filed by reference in 401 KAR 50:015, or sampling procedures specified by any regulation;

(h) Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1, Appendix B to 40 CFR 60, but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The department may require that such demonstration be performed for each affected facility;

(i) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two (2) or more affected facilities are released to the atmosphere through more than one (1) point.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:010. New process operations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new process operations which are not subject to another particulate standard within this chapter.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility, associated with a process operation, which is not subject to another emission standard with respect to particulates in this chapter, commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Process operation" means any method, form, action, operation, or treatment of manufacturing or processing, and shall include any storage or handling of materials or products, before, during, or after manufacturing or processing.

(2) "Process weight" means the total weight of all materials introduced into any affected facility which may cause any emission of particulate matter, but does not include liquid and gaseous fuels charged, combustion air, or uncombined water.

(3) "Process weight rate" means a rate established as follows:

(a) For continuous or long-run steady state operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(b) For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

(c) Where the nature of any process operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation which results in the minimum value for allowable emission shall apply.

(4) "Affected facility" as related to process operations means the last operation preceding the emission of air contaminants which results:

(a) In the separation of the air contaminant from the process materials; or

(b) In the conversion of the process materials into air contaminants, but does not include an air pollution abatement operation.

(5) "Classification date" means July 2, 1975.

Section 3. Standard for Particulate Matter. No person shall cause, suffer, allow, or permit the emission into the open air of particulate matter from any affected facility, or from all air pollution control equipment installed on any affected facility which:

(1) Is equal to or greater than twenty (20) percent opacity; or

(2) Is in excess of the quantity specified in Appendix A to this regulation.

Section 4. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Section 3 shall be conducted according to the following methods, filed by reference in 401 KAR 50:015:

(1) *For sources located in or having significant impact upon areas designated non-attainment for total suspended particulates under 401 KAR 51:010,* Kentucky Method 50 for the emission rates of particulate matter and the associated moisture content. *In all other areas Reference Method 5 shall be used.*

(2) Reference Method 1 for sample and velocity traverses.

(3) Reference Method 2 for velocity and volumetric flow rate.

(4) Reference Method 3 for gas analysis.

(5) Reference Method 9 for visible emissions.

(6) For Kentucky Method 50 *or Reference Method 5,* Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 0.85 dscm (thirty (30) dscf) except that smaller sampling time or volumes, when necessitated by process variables or other factors, may be approved by the department.

APPENDIX A TO 401 KAR 59:010
ALLOWABLE RATE OF PARTICULATE EMISSION BASED ON PROCESS WEIGHT RATE

Process Weight Rate		Maximum Allowable Emission Rate
Lb/Hr.	Ton/Hr.	Lb/Hr.
100 or less	0.05 or less	0.56
200	0.10	0.86
400	0.20	1.32
600	0.30	1.70
800	0.40	2.03
1,000	0.50	2.34
1,500	0.75	3.00
2,000	1.00	3.59
2,500	1.25	4.12
3,000	1.50	4.62
3,500	1.75	5.08
4,000	2.00	5.52
5,000	2.50	6.34
6,000	3.00	7.09
7,000	3.50	7.81
8,000	4.00	8.48
9,000	4.50	9.12
10,000	5.00	9.74
12,000	6.00	10.90
16,000	8.00	13.03
18,000	9.00	14.02
20,000	10.00	14.97
30,000	15.00	19.24
40,000	20.00	23.00
50,000	25.00	26.41
60,000	30.00	29.57
70,000	35.00	30.57
80,000	40.00	31.23
90,000	45.00	31.83
100,000	50.00	32.37
120,000	60.00	33.33
140,000	70.00	34.16
160,000	80.00	34.90
200,000	100.00	36.17
1,000,000	500.00	46.79
2,000,000	1,000.00	52.28
6,000,000	3,000.00	62.32

Interpolation of the data for process weight rates up to 60,000 lb/hr. shall be accomplished by use of the equation

$$E = 3.59P^{0.62}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr. shall be accomplished by the use of the equation

$$E = 17.31P^{0.16}$$

where E = rate of emission in lb/hr and P = process weight rate in tons/hr.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:015. New indirect heat exchangers.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new indirect heat exchangers.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the applicable classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 and 401 KAR 50:025.

(1) "Affected facility" means an indirect heat exchanger having a heat input capacity of more than one (1) million BTU per hour.

(2) "Indirect heat exchanger" means any piece of equipment, apparatus or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(3) "Classification date" means:

(a) August 17, 1971 for affected facilities with a capacity of more than 250 million BTU per hour heat input with respect to particulate emissions, sulfur dioxide emissions and (if fuels other than lignite are burned) nitrogen oxide emissions;

(b) April 9, 1972 for affected facilities with a capacity of 250 million BTU per hour heat input or less with respect to particulate emissions and sulfur dioxide emissions;

(c) December 22, 1976 for affected facilities with a capacity of more than 250 million BTU per hour heat input with respect to nitrogen oxides if lignite is the fuel burned.

Section 3. Method for Determining Allowable Emission Rates. (1) Except as provided in subsection (3) of this section, the total rated heat input capacity of all affected facilities within a source, including those for which an application to construct, modify or reconstruct has been submitted to the department, shall be used as specified in Sections 4 and 5 to determine the allowable emission in terms of pounds of effluent per million BTU input.

(2) At such time as any effected facility is assigned an allowable emission rate by the department, at no time thereafter shall that rate be changed due to inclusion or shutdown of any affected facility at the source.

(3) (a) A source may petition the department to establish an allowable emission rate which may be apportioned without regard to individual heat input provided that the conditions specified in paragraphs (b), (c), (d), *and* (e)[, and (f)] of this subsection are met. Such allowable emission rate shall be determined according to the following equation:

$$F = (AB + DE)/C$$

Where:

A = the allowable emission rate (in pounds [of effluent] per million BTU input) as determined according to subsection (1) of this section;

B = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced on or after the applicable classification date within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the department;

C = the total rated heat input (in millions of BTU per hour) of all affected facilities within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the department;

D = the allowable emission rate (in pounds [of effluent] per million BTU input) as determined according to 401 KAR 61:005, Section 3(1);

E = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced before the applicable classification date;

F = the alternate allowable emission rate (in pounds [of effluent] per actual million BTU input).

(b) At no time shall the owner or operator of the source allow the total emissions (in pounds [of effluent] per hour) from all affected facilities within the source divided by the total actual heat input (in millions of BTU per hour) of all affected facilities within the source to exceed the alternate allowable emission rate as determined by paragraph (a) of this subsection.

(c) At no time shall the owner or operator of *any* [the] source *subject to federal new source performance standard* allow the emissions from any affected facility commenced on or after the applicable classification date to exceed the allowable emission rate determined by use of that affected facility's rated heat input (instead of the heat input as determined by subsection (1) of this section) as specified in [this] *S*[s]ection *4* and Section 5.

(d) The owner or operator of the source must demonstrate compliance with this subsection by conducting a performance test according to 401 KAR 50:045 on each affected facility under such conditions as may be specified by the department.

(e) Upon petition, the department will establish an alternate emission rate in accordance with this subsection if the owner or operator demonstrates to the department's satisfaction that the source will maintain compliance with this subsection on a continual basis.

Section 4. Standard for Particulate Matter. Except as provided in Section 3(3), no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility, particulate matter in excess of that specified below:

(1) For sources having a total heat input capacity, as determined by Section 3(1), which is:

(a) Ten (10) million BTU per hour or less, the standard is 0.56 pounds per million BTU actual heat input;

(b) 250 million BTU per hour or more, the standard is 0.10 pounds per million BTU actual heat input;

(c) [If the affected facility subject to this regulation commenced before the effective date of this regulation,] For heat input values between those specified in paragraphs (a) and (b) of this subsection, the standard in pounds per million BTU actual heat input, is equal to: 0.9634 times that quantity obtained by raising the total

heat input capacity (in millions of BTU per hour) to the -0.2356 power;

[(d) If the affected facility subject to this regulation commenced on or after the effective date of this regulation, for heat input values between those specified in paragraphs (a) and (b) of this subsection, the standard in pounds per million BTU actual heat input, is equal to: 1.919 times that quantity obtained by raising the total heat input capacity (in millions of BTU per hour) to the -0.535 power;]

(2) Emissions which exhibit greater than twenty (20) percent opacity except:

(a) That, for [cyclone or pulverized fired] indirect heat exchangers *with heat input capacity of 250 million BTU per hour or more*, a maximum of twenty-seven (27) percent opacity shall be permissible for not more than one six-minute period in any sixty (60) consecutive minutes.

(b) That, for [stoker fired] indirect heat exchangers *with heat input capacity of less than 250 million BTU per hour*, a maximum of forty (40) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot.

(c) For emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

Section 5. Standard for Sulfur Dioxide. Except as provided in Section 3(3), no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility, any gases which contain sulfur dioxide in excess of that specified below:

(1) [In counties classed other than VA (with respect to sulfur dioxide)] For sources which have a total heat input capacity, as determined by Section 3(1), which is:

(a) Ten (10) million BTU per hour or less, the standard is three (3.0) pounds per million BTU actual heat input for combustion of liquid and gaseous fuels and five (5.0) pounds per million BTU actual heat input for combustion of solid fuels;

(b) 250 million BTU per hour or more, the standard is 0.8 pounds per million BTU actual heat input for combustion of liquid and gaseous fuels and 1.2 pounds per million BTU actual heat input for combustion of solid fuels;

(c) For heat input values between those specified in paragraphs (a) and (b) of this subsection, the standard in pounds per million BTU actual heat input, is equal to:

1. For combustion of liquid and gaseous fuels, 7.7223 times that quantity obtained by raising the total heat input capacity (in millions of BTU per hour) to the -0.4106 power;

2. For combustion of solid fuels, 13.8781 times that quantity obtained by raising the total heat input capacity (in millions of BTU per hour) to the -0.4434 power.

[(2) In Class VA counties (with respect to sulfur dioxide) for sources which have a total heat input capacity, as determined by Section 3(1), which is:]

[(a) Ten (10) million BTU per hour or less, the standard is three (3.0) pounds per million BTU actual heat input for combustion of liquid and gaseous fuels and five (5.0) pounds per million BTU actual heat input for combustion of solid fuels;]

[(b) 250 million to 1500 million BTU per hour, the standard is 0.8 pounds per million BTU actual heat input for combustion of liquid and gaseous fuels and 1.2 pounds per million BTU actual heat input for combustion of solid fuels;]

[(c) For heat input values between those specified in paragraphs (a) and (b) of this subsection, the standard in pounds per million BTU actual heat input, is equal to:]

[1. For combustion of liquid and gaseous fuels, 7.7223 times that quantity obtained by raising the total heat input capacity (in millions of BTU per hour) to the -0.4106 power;]

[2. For combustion of solid fuels, 13.8781 times that quantity obtained by raising the total heat input capacity (in millions of BTU per hour) to the -0.4434 power.]

[(d) More than 1500 million BTU per hour, the standard is 0.4 pounds per million BTU actual heat input for combustion of liquid and gaseous fuels and 0.6 pounds per million BTU actual heat input for combustion of solid fuels.]

(2) [(3)] When different fuels are burned simultaneously in any combination the applicable standard shall be determined by proration using the equation given in Appendix A of this regulation.

(3) [(4)] Compliance shall be based on the total heat input from all fuels burned, including gaseous fuels.

Section 6. Standard for Nitrogen Oxides. (1) No owner or operator of an affected facility with a heat input capacity of 250 million BTU per hour or more subject to the provisions of this regulation shall cause to be discharged into the atmosphere any gases which contain nitrogen oxides expressed as nitrogen dioxide in excess of:

(a) 0.20 lb. per million BTU heat input (0.36 g. per million cal) derived from gaseous fuel;

(b) 0.30 lb. per million BTU heat input (0.54 g. per million cal) derived from liquid fuel;

(c) 0.70 lb. per million BTU heat input (1.26 g. per million cal) derived from solid fuel (except lignite);

(d) 0.60 lb. per million BTU heat input (1.08 g. per million cal) derived from lignite or lignite and wood residue except as provided under paragraph (e) of this subsection;

(e) .80 lb. per million BTU derived from lignite which is mined in North Dakota, South Dakota, or Montana and which is burned in a cyclone-fired unit.

(2) Except as provided in subsections (3) and (4) of this section, when different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the equation given in Appendix B to this regulation.

(3) When a fossil fuel containing at least twenty-five (25) percent by weight, of coal refuse is burned in combination with gaseous, liquid, or other solid fossil fuel or wood residue, the standard for nitrogen oxides does not apply.

(4) Cyclone-fired units which burn fuel containing at least twenty-five (25) percent of lignite that is mined in North Dakota, South Dakota, or Montana remain subject to subsection (1)(e) of this section regardless of the types of fuel combusted in combination with that lignite.

Section 7. Emission and Fuel Monitoring. The provisions of this section shall apply to any affected facility of more than 250 million BTU per hour rated heat input capacity.

(1) Each owner or operator shall install, calibrate, maintain, and operate continuous monitoring systems for measuring the opacity of emissions, sulfur dioxide emissions, nitrogen oxides emissions and either oxygen or carbon dioxide except as provided in subsection (2) of this section.

(2) Certain of the continuous monitoring system requirements under subsection (1) of this section do not apply to owners or operators under the following conditions:

(a) For an indirect heat exchanger that burns only gaseous fuel, continuous monitoring systems for measuring the opacity of emissions are not required;

(b) For an indirect heat exchanger that burns only natural gas, continuous monitoring systems for measuring sulfur dioxide emissions are not required;

(c) Notwithstanding 401 KAR 59:005, Section 4(2), installation of a continuous monitoring system for nitrogen oxides may be delayed until after the initial performance tests under 401 KAR 59:005, Section 2, have been conducted. If the owner or operator demonstrates during the performance test that emissions of nitrogen oxides are less than seventy (70) percent of the applicable standards in Section 6, a continuous monitoring system for measuring nitrogen oxides emissions is not required. If the initial performance test results show that nitrogen oxide emissions are greater than seventy (70) percent of the applicable standard, the owner or operator shall install a continuous monitoring system for nitrogen oxides within one (1) year after the date of the initial performance tests under 401 KAR 59:005, Section 2, and comply with all other applicable monitoring requirements under this chapter;

(d) If an owner or operator does not install any continuous monitoring systems for sulfur oxides and nitrogen oxides, as provided under paragraphs (a) and (c) or paragraphs (b) and (c) of this subsection, a continuous monitoring system for measuring either oxygen or carbon dioxide is not required.

(e) For an indirect heat exchanger that does not use a flue gas desulfurization device, a continuous monitoring system for measuring sulfur dioxide emissions is not required if the owner or operator monitors sulfur dioxide emissions by fuel sampling and analysis under subsection (6) of this section.

(3) For performance evaluations under 401 KAR 59:005, Section 4(3), and calibration checks under 401 KAR 59:005, Section 4(4), the following procedures shall be used:

(a) Reference Methods 6 or 7, filed by reference in 401 KAR 50:015, as applicable, shall be used for conducting performance evaluations of sulfur dioxide and nitrogen oxides continuous monitoring systems;

(b) Sulfur dioxide or nitric oxide, as applicable, shall be used for preparing calibration gas mixtures under Performance Specification 2 of Appendix B to 40 CFR 60, filed by reference in 401 KAR 50:015;

(c) For affected facilities burning fossil fuel(s), the span value for a continuous monitoring system measuring the opacity of emissions shall be eighty (80), ninety (90), or 100 percent and for a continuous monitoring system measuring sulfur oxides or nitrogen oxides the span value shall be determined as shown in Appendix C of this regulation;

(d) All span values computed under subsection (3)(c) of this section for burning combinations of fuels shall be rounded to the nearest 500 ppm;

(e) For an indirect heat exchanger that simultaneously burns fossil fuel and nonfossil fuel, the span value of all continuous monitoring systems shall be subject to the department's approval.

(4) A continuous monitoring system for measuring either oxygen or carbon dioxide in the flue gases, shall be installed, calibrated, maintained and operated by the owner or operator.

(5) For any continuous monitoring system installed under subsection (1) of this section, the following conversion procedures shall be used to convert the continuous monitoring data into units of the applicable standards (ng/J, lb/million BTU):

(a) When a continuous monitoring system for measuring oxygen is selected, the measurement of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry). Alternative procedures approved by the department and the U. S. Environmental Protection Agency shall be used when measurements are on a wet basis. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E = (20.9CF)/(20.9 - \%\ \text{oxygen})$$

where:
E, C, F, and % oxygen are determined under subsection (6) of this section.

(b) When a continuous monitoring system for measuring carbon dioxide is selected, the measurement of a pollutant concentration and carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure shall be used:

$$E = (100\ CFc)/(\%\ \text{carbon dioxide})$$

where:
E, C, Fc and % carbon dioxide are determined under subsection (6) of this section.

(6) The values used in the equations under subsection (5)(a) and (b) of this section are derived as follows:

(a) E = Pollutant emission, g/million cal (lb/million BTU).

(b) C = Pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each one-hour period by .0000415 M g/dscm per ppm (2.59 times ten (10) raised to the minus nine (9) power times M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole). M = 64.07 for sulfur dioxide and 46.01 for nitrogen oxides.

(c) F, Fc = a factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), and a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted (Fc), respectively, as folows (A.S.T.M. designations are filed by reference in 401 KAR 50:015.):

1. For anthracite coal as classified according to A.S.T.M. D388-66(72), F = 10,140 dscf/million BTU and Fc = 1980 scf CO2/million BTU.

2. For sub-bituminous and bituminous coal as classified according to A.S.T.M. D388-66(72), F = 9820 dscf/million BTU and Fc = 1810 scf CO2/million BTU.

3. For liquid fossil fuels including crude, residual, and distillate oils, F = 9220 dscf/million BTU and Fc = 1430 scf CO2/million BTU.

4. For gaseous fossil fuels, F = 8740 dscf/million BTU. For natural gas, propane and butane fuels, Fc = 1040 scf CO2/million BTU for natural gas, 1200 scf CO2/million BTU for propane, and 1260 scf CO2/million BTU for butane.

5. For bark, F = 9575 dscf/million BTU and Fc = 1927 scf CO2/million BTU. For wood residue other than bark, F = 9233 dscf/million BTU and Fc = 1842 scf CO2/million BTU.

6. For lignite coal is classified according to A. S. T. M. D388-66, F = 9900 dscf/mm BTU and Fc = 1920 scf CO2/mm BTU.

(d) The owner or operator may use the equation given in Appendix D of this regulation to determine an F factor (dscm/million cal, or dscf/million BTU) on a dry basis (if it is desired to calculate F on a wet basis, consult with the department) or Fc factor (scm CO2/million cal, or scf CO2/million BTU) on either basis in lieu of the F or Fc factors specified in paragraph (c) of this subsection.

1. H, C, S, N, and O are content by weight of hydrogen, carbon, sulfur, nitrogen, and oxygen (expressed as percent), respectively, as determined on the same basis as GCV by ultimate analysis of the fuel fired using A. S. T. M. method D3178-73 or D3176-74 (solid fuels) or computed from results using A. S. T. M. methods D1137-53(75), D1945-64(73), or D1946-67(72) (gaseous fuels) as applicable.

2. GCV is the gross calorific value (cal/g, BTU/lb) of the fuel combusted determined by A. S. T. M. test methods D2015-66(72) for solid fuels and D1826-64(70) for gaseous fuels as applicable.

(e) For affected facilities firing combinations of fuels, the F or Fc factors determined by paragraphs (c) and (d) of this subsection shall be prorated in accordance with the applicable formula as given in Appendix E of this regulation.

(7) For the purpose of reports required under 401 KAR 59:005, Section 3(3), periods of excess emissions that shall be reported are defined as follows:

(a) Excess emissions are defined as any six (6) minute period during which the average opacity of emissions exceeds twenty (20) percent opacity, except that one six (6) minute average per hour of up to twenty-seven (27) percent opacity need not be reported.

(b) Sulfur dioxide. Excess emissions for affected facilities are defined as: Any three (3) hour period during which the average emissions (arithmetic average of three (3) contiguous one (1) hour periods) of sulfur dioxide as measured by a continuous monitoring system exceed the applicable standard under Section 5.

(c) Nitrogen oxides. Excess emissions for affected facilities using a continuous monitoring system for measuring nitrogen oxides are defined as any three (3) hour period during which the average emissions (arithmetic average of three (3) contiguous one (1) hour periods) exceed the applicable standards under Section 6.

(8) The department may require for any indirect heat exchanger unit of 250 million BTU per hour heat input or less any or all the emission and fuel monitoring required by this section.

Section 8. Test Methods and Procedures. (1) The reference methods in Appendix A of 40 CFR 60 except as provided in 401 KAR 50:045 shall be used to determine compliance with the standards as prescribed in Sections 4, 5, and 6 as follows:

(a) Reference Method 1 for the selection of sampling site and sample traverses;

(b) Reference Method 3 for gas analysis to be used when applying Reference Methods 5, 6, and 7;

(c) Reference Method 5 for concentration of particulate matter and the associated moisture content;

(d) Reference Method 6 for the concentration of sulfur dioxide; and

(e) Reference Method 7 for the concentration of nitrogen oxides.

(2) For Reference Method 5, Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf) except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the department. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C (320°F).

(3) For Reference Methods 6 and 7, the sampling site shall be the same as that selected for Reference Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (3.28 ft). For Reference Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(4) For Reference Method 6, the minimum sampling time shall be twenty (20) minutes and the minimum sampling volume shall be 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately thirty (30) minute intervals.

(5) For Reference Method 7, each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals. The arithmetic mean of the samples shall constitute the run value.

(6) For each run using the methods specified by Section 8(1)(a), (b) and (c) of this regulation, the emissions expressed in g/million cal (lb/million BTU) shall be determined by the following procedure:

$$E = (20.9\ CF)/(20.9 - \%\text{oxygen})$$

where:

(a) E = pollutant emission g/million cal (lb/million BTU).

(b) C = pollutant concentration, g/dscm (lb/dscf), determined by Reference Methods 5, 6 or 7.

(c) % oxygen = oxygen content by volume (expressed as percent), dry basis. Percent oxygen shall be determined by using the integrated or grab sampling and analysis procedures of Reference Method 3 as applicable. The sample shall be obtained as follows:

1. For determination of sulfur dioxide and nitrogen oxides emissions, the oxygen sample shall be obtained simultaneously at the same point in the duct as used to obtain the samples for Reference Methods 6 and 7 determinations, respectively. For Reference Method 7, the oxygen sample shall be obtained using the grab sampling and analysis procedures of Reference Method 3.

2. For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the same sampling location used for each run of Reference Method 5 under Section 8(2). Reference Method 1 shall be used for selection of the number of traverse points except that no more than twelve (12) sample points are required.

(d) F = a factor as determined in Section 7(6)(c), (d), or (e).

(7) When combination of fossil fuels are fired, the heat input, expressed in cal/hr (BTU/hr), shall be determined during each testing period by multiplying the gross calorific value of each fuel fired by the rate of each fuel burned. Gross calorific value shall be determined in accordance with A. S. T. M. methods D2015-66(72) (solid fuels), D240-76 (liquid fuels), or D1826-64(70) (gaseous fuels) as applicable. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the steam generation system.

APPENDIX A TO 401 KAR 59:015 DETERMINATION OF ALLOWABLE SULFUR DIOXIDE EMISSION

Allowable sulfur dioxide emission in pounds per million BTU per hour heat input =

$$\frac{y\,(a) + z\,(b)}{y + z}$$

Where:
y is the percent of total heat input derived from liquid or gaseous fuel,
z is the percent of total heat input derived from solid fuel,
a is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from liquid or gaseous fuel, and
b is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from solid fuel.

APPENDIX B TO 401 KAR 59:015 DETERMINATION OF ALLOWABLE NITROGEN DIOXIDE EMISSION

Allowable nitrogen dioxide emission in pounds per million BTU/hour heat input =

$$\frac{x(0.20) + y(0.30) + z(0.70) + w(0.60)}{x + y + z + w}$$

Where:
x is the percent of total heat input derived from gaseous fuel and,
y is the percent of total heat input derived from liquid fuel and,
z is the percent of total heat input derived from solid fuel (except lignite),
w is the percent of total heat input derived from lignite.

APPENDIX C TO 401 KAR 59:015 DETERMINATION OF SPAN VALUE (in parts per million)

Fossil Fuel	Span Value for Sulfur Dioxide	Span Value for Nitrogen Oxides
Gas	*	500
Liquid	1,000	500
Solid	1,500	500
Combinations	1,000y + 1,500z	500(x + y) + 1,000z

* Not applicable

Where:
x = the fraction of total heat input derived from gaseous fossil fuel, and
y = the fraction of total heat input derived from liquid fossil fuel, and
z = the fraction of total heat input derived from solid fossil fuel.

APPENDIX D TO 401 KAR 59:015 DETERMINATION OF F OR Fc FACTOR

$$F = \frac{2.2[7]7.2[0](\%H) + 95.5[7](\%C) + 35.6[4](\%S) + 8.7[6](\%N) - 28.7[5](\%O)}{GCV}$$

(metric units)

$$F = \frac{10^6\,[3.64(\%H) + 1.53(\%C) + 0.57(\%S) + 0.14(\%N) - 0.46(\%O)]}{GCV}$$

(English units)

$$Fc = \frac{2.0 \times 10^{-5}\,[20.0]\,(\%C)}{GCV}$$ (metric units)

$$Fc = \frac{321 \times 10^3\,(\%C)}{GCV}$$ (English units)

Where:
H, C, S, N, and O are content by weight of hydrogen, carbon, sulfur, nitrogen, and oxygen (expressed as percent) respectively, as determined on the same basis as GCV by ultimate analysis of the fuel fire, using A.S.T.M. method D3178-73 or D3176-74 (solid fuels) or computed from results using A.S.T.M. methods D1137-53(75), D1945-64(73), or D1946-67(72) (gaseous fuels) as applicable.
GCV is the gross calorific value (cal/g, BTU/lb) of the fuel combusted, determined by A.S.T.M. test methods D2015-66(72) for solid fuels and D1826-64(70) for gaseous fuels as applicable.

APPENDIX E TO 401 KAR 59:015 DETERMINATION OF F OR Fc FACTOR FOR FIRING COMBINATIONS

$$F = xF_1 + yF_2 + zF_3$$

Where:
x, y, z = the fraction of total heat input derived from gaseous, liquid, and solid fuel, respectively.
F_1, F_2, F_3 = the value of F for gaseous liquid, and solid fuels respectively under Section 7(6)(c) and (d).

$$Fc = \sum_{i=1}^{n} X_i\,(Fc)i$$

Where:
X_i = the fraction of total heat input derived from each type fuel (e.g., natural gas, butane, crude bituminous coal, etc.)
(Fc)i = the applicable Fc factor for each fuel type determined in accordance with Section 7(6)(c) and (d).

EUGENE F. MOONEY, Secretary
ADOPTED: April 24, 1979
RECEIVED BY LRC: April 25, 1979 at 9:30 a.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:020. New incinerators.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide standards of performance for new incinerators.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means each incinerator commenced on or after the applicable classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Incinerator" means any furnace used in the process of burning waste for the purpose of reducing the volume of the waste by removing combustible matter.

(2) "Day" means twenty-four (24) hours.

(3) "Auxiliary fuel" means a substance burned in an incinerator to supply additional heat to attain temperature sufficiently high to dry and ignite waste material and to maintain ignition of the waste material.

(4) "Classification date" means:

(a) August 17, 1971 for incinerators with a charging rate of more than fifty (50) tons/day,

(b) April 9, 1972 for incinerators with a charging rate of fifty (50) tons/day or less.

Section 3. Standards for Particulate Matter. (1) No owner or operator of any affected facility shall cause, suffer, allow, or permit the emission produced by the incineration of any substance to have greater than *twenty (20)* [ten (10)] percent opacity.

(2) No owner or operator of an affected facility of 500 lb/hr up to and including forty-five (45) metric tons per day charging rate (fifty (50) tons/day) shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of 0.23 g/dscm (0.1 gr/dscf) corrected to twelve (12) percent carbon dioxide excluding the contribution of carbon dioxide from auxiliary fuel.

(3) On and after the date on which the performance test required to be conducted by 401 KAR 59:005 is completed, no owner or operator of an affected facility of more than forty-five (45) metric tons per day charging rate (fifty (50) tons/day) shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of 0.18 g/dscm (0.08 gr/dscf) corrected to twelve (12) percent carbon dioxide excluding the contribution of carbon dioxide from auxiliary fuel.

Section 4. Monitoring of Operations. The owner or operator of an affected facility of more than forty-five (45) metric tons per day charging rate (fifty (50) tons per day) shall record the daily charging rates and hours of operation.

Section 5. Nameplate. All affected facilities shall have a nameplate installed in a conspicuous place on the unit giving the manufacturer's name, model number, rated capacity, and the types of waste material for which the unit is designed.

Section 6. Test Methods and Procedures. (1) The reference methods as defined in Appendix A of 40 CFR 60, filed by reference in 401 KAR 50:015, except as provided for in 401 KAR 50:045, shall be used to determine compliance with the standards prescribed in Section 3 as follows:

(a) Reference Method 5 for the concentration of particulate matter and the associated moisture content;

(b) Reference Method 1 for sample and velocity traverses;

(c) Reference Method 2 for velocity and volumetric flow rate; and

(d) Reference Method 3 for gas analysis and calculation of excess air, using the integrated sample technique.

(2) The sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the department.

(3) If a wet scrubber is used, the gas analysis sample shall reflect flue gas conditions after the scrubber, allowing for carbon dioxide absorption by sampling the gas on the scrubber inlet and outlet sides according to either the procedure under paragraphs (a) through (f) of this subsection or the procedure under Section 7.

(a) The inlet site shall be selected according to Reference Method 1 or as specified by the department.

(b) The outlet sampling site shall be the same as for the particulate matter measurement.

(c) Randomly select nine (9) sampling points within the cross-section at both the inlet and outlet sampling sites. Use the first set of three (3) for the first run, the second set for the second run, and the third set for the third run.

(d) Simultaneously with each particulate matter run, extract and analyze for carbon dioxide an integrated gas sample traversing the three (3) sample points and sampling at each point for equal increments of time. Conduct the runs at both inlet and outlet sampling sites.

(e) Measure the volumetric flow rate at the inlet during each particulate matter run using the full number of traverse points. For the inlet make two (2) full velocity traverses approximately one (1) hour apart during each run and average the results. The outlet volumetric flow rate may be determined from the particulate matter run.

(f) Calculate the adjusted carbon dioxide percentage using the equation in Appendix A of this regulation.

Section 7. Alternatively, the following procedures may be substituted for the procedures under Section 6(3)(d), (e) and (f).

(1) Simultaneously with each particulate matter run, extract and analyze for carbon dioxide, oxygen, and nitrogen an integrated gas sample traversing the three (3) sample points and sampling for equal increments of time at each point. Conduct the runs at both the inlet and outlet sampling sites.

(2) After completing the analysis of the gas sample, calculate the percentage of excess air for both the inlet and outlet sampling sites.

(3) Calculate the adjusted carbon dioxide percentage using the equation in Appendix B of this regulation.

(4) Particulate matter emissions, expressed in g/dscm,

shall be corrected to twelve (12) percent carbon dioxide by using the formula in Appendix C of this regulation.

[Section 8. Emission Monitoring. A continuous monitoring system for the measurement of opacity of emissions discharged into the atmosphere from each incinerator with a charging capacity of more than forty-five (45) metric tons per day (fifty (50) tons/day) shall be installed, calibrated, maintained, and operated by the owner or operator subject to the provisions of this regulation.]

APPENDIX A TO 401 KAR 59:020
CALCULATION FOR ADJUSTED CARBON DIOXIDE PERCENTAGE FOR INCINERATORS

$$\%CO_2A = \%CO_2D\ (Q_i/Q_o)$$

where:
$\%CO_2A$ is the adjusted carbon dioxide percentage which removes the effect of carbon dioxide absorption and dilution air.
$\%CO_2D$ is the percentage of carbon dioxide measured before the scrubber, dry basis.
Q_i is the volumetric flow rate before the scrubber average of two (2) runs, dscf/min, and
Q_o is the volumetric flow rate after the scrubber, dscf/min.

APPENDIX B TO 401 KAR 59:020
CALCULATION FOR ADJUSTED CARBON DIOXIDE PERCENTAGE INCINERATOR, ALTERNATE PROCEDURE

$$\%CO_2A = \%CO_2D\ \frac{100 + \%EA_i}{100 + \%EA_o}$$

where:
$\%CO_2A$ is the adjusted outlet carbon dioxide percentage,
$\%CO_2D$ is the percentage of carbon dioxide measured before the scrubber, dry basis,
$\%EA_i$ is the percentage of excess air at the inlet, and
$\%EA_o$ is the percentage of excess air at the outlet.

APPENDIX C TO 401 KAR 59:020
PARTICULATE EMISSIONS CORRECTION CALCULATION FOR INCINERATORS, ALTERNATE PROCEDURE

$$C_{12} = \frac{12C_p}{\%CO_2}$$

where:
C_{12} is the concentration of particulate matter corrected to twelve (12) percent carbon dioxide,
C_p is the concentration of particulate matter and,
$\%CO_2$ is the percentage of measured carbon dioxide or when applicable, the adjusted outlet carbon dioxide percentage as determined by Appendix B to this regulation.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:045. New petroleum refineries.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide standards of performance for new petroleum refineries.

Section 1. Applicability. (1) The provisions of this regulation are applicable to the following affected facilities in petroleum refineries; fluid catalytic cracking unit catalyst regenerators, fuel gas combustion devices, and all Claus sulfur recovery plants except Claus plants of twenty (20) long tons per day (LTD) or less associated with a small petroleum refinery. The Claus sulfur recovery plant need not be physically located within the boundaries of a petroleum refinery to be an affected facility, provided it processes gases produced within a petroleum refinery.
(2) Any fluid catalytic cracking unit catalyst regenerator or fuel gas combustion device under subsection (1) of this section which commences on or after the classification date defined in Section 2(14) or any Claus sulfur recovery plant under subsection (1) of this section which commences on or after the classification date defined in Section 2(14) is subject to the requirements of this regulation.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.
(1) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking or reforming of unfinished petroleum derivatives.
(2) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale and coal.
(3) "Process gas" means any gas generated by a petroleum refinery process unit, except fuel gas and process upset gas as defined in this section.
(4) "Fuel gas" means any gas which is generated by a petroleum refinery process unit and which is combusted, including any gaseous mixture of natural gas and fuel gas which is combusted.
(5) "Process upset gas" means any gas generated by a petroleum refinery process unit as a result of startup, shutdown, upset or malfunction.
(6) "Refinery process unit" means any segment of the petroleum refinery in which a specific processing operation is conducted.
(7) "Fuel gas combustion device" means any equipment, such as process heaters, boilers and flares used to combust fuel gas, but does not include fluid coking unit and fluid catalytic cracking unit incinerator-waste heat boilers, *facilities combusting coke oven gas in a by-product coke manufacturing plant,* or facilities in which gases are combusted to produce sulfur or sulfuric acid.
(8) "Coke burn-off" means the coke removed from the surface of the fluid catalytic cracking unit catalyst by combustion in the catalyst regenerator. The rate of coke burn-

off is calculated by the formula specified in Appendix A of this regulation.

(9) "Claus sulfur recovery plant" means a process unit which recovers sulfur from hydrogen sulfide by a vapor-phase catalytic reaction of sulfur dioxide and hydrogen sulfide.

(10) "Oxidation control system" means an emission control system which reduces emissions from sulfur recovery plants by converting these emissions to sulfur dioxide.

(11) "Reduction control system" means an emission control system which reduces emissions from sulfur recovery plants by converting these emissions to hydrogen sulfide.

(12) "Reduced sulfur compounds" means hydrogen sulfide, carbonyl sulfide and carbon disulfide.

(13) "Small petroleum refinery" means a petroleum refinery which has a crude oil processing capacity of 50,000 barrels per stream day or less, and which is owned or controlled by a refinery with a total combined crude oil processing capacity of 137,500 barrels per stream day or less.

(14) "Classification date" means June 11, 1973 for any fluid catalytic cracking unit catalyst regenerator or fuel gas combustion device and October 4, 1976 for any Claus recovery plant.

Section 3. Standard for Particulate Matter. (1) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall discharge or cause the discharge into the atmosphere from any fluid catalytic cracking unit catalyst regenerator:

(a) Particulate matter in excess of 1.0 kg/1000 kg (1.0 lb/1000 lb) of coke burn-off in the catalyst regenerator.

(b) Gases exhibiting greater than thirty (30) percent opacity, except for one six (6) minute average opacity reading in any one (1) hour period.

(2) Where the gases discharged by the fluid catalytic cracking unit catalyst regenerator pass through an incinerator or waste heat boiler in which auxiliary or supplemental liquid or solid fossil fuel is burned, particulate matter in excess of that permitted by subsection (1)(a) of this section may be emitted to the atmosphere, except that the incremental rate of particulate matter emissions shall not exceed 43.0 g/MJ (0.10 lb/million BTU) of heat input attributable to such liquid or solid fossil fuel.

Section 4. Standard for Carbon Monoxide. On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall discharge or cause the discharge into the atmosphere from the fluid catalytic cracking unit catalyst regenerator any gases which contain carbon monoxide in excess of 0.050 percent by volume.

Section 5. Standard for Sulfur Dioxide. On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall:

(1) Burn in any fuel gas combustion device any fuel gas which contains hydrogen sulfide in excess of 230 mg/dscm (0.10 gr/dscf), except that the gases resulting from the combustion of fuel gas may be treated to control sulfur dioxide emissions provided the owner or operator demonstrates to the satisfaction of the department that this is as effective in preventing sulfur dioxide emissions to the atmosphere as restricting the hydrogen sulfide concentration in the fuel gas to 230 mg/dscm or less. The combustion in a flare of process upset gas, or fuel gas which is released to the flare as a result of relief valve leakage, is exempt from this subsection.

(2) Discharge or cause the discharge of any gases into the atmosphere from any Claus sulfur recovery plant containing in excess of:

(a) 0.025 percent by volume of sulfur dioxide at zero percent oxygen on a dry basis if emissions are controlled by an oxidation control system, or a reduction control system followed by incineration; or

(b) 0.030 percent by volume of reduced sulfur compounds and 0.0010 percent by volume of hydrogen sulfide calculated as sulfur dioxide at zero percent oxygen on a dry basis if emissions are controlled by a reduction control system not followed by incineration.

Section 6. Emission Monitoring. (1) Continuous monitoring systems shall be installed, calibrated, maintained, and operated by the owner or operator as follows:

(a) A continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the fluid catalytic cracking unit catalyst regenerators. The continuous monitoring system shall be spanned at sixty (60), seventy (70) or eighty (80) percent opacity.

(b) An instrument for continuously monitoring and recording the concentration of carbon monoxide in gases discharged into the atmosphere from fluid catalytic cracking unit catalyst regenerators. The span of this continuous monitoring system shall be 1,000 ppm.

(c) A continuous monitoring system for the measurement of sulfur dioxide in the gases discharged into the atmosphere from the combustion of fuel gases (except where a continuous monitoring system for the measurement of hydrogen sulfide is installed under paragraph (d) of this subsection). The pollutant gas used to prepare calibration gas mixtures under Performance Specification 2 of 40 CFR 60, filed by reference in 401 KAR 50:015, Paragragh 2.1, and for calibration checks under 401 KAR 59:005, Section 4(4), shall be sulfur dioxide. The span shall be set at 100 ppm. For conducting monitoring system performance evaluations under 401 KAR 59:005, Section 4(3), Reference Method 6 shall be used.

(d) An instrument for continuously monitoring and recording concentrations of hydrogen sulfide in fuel gases burned in any fuel gas combustion device, if compliance with Section 5(1) is achieved by removing hydrogen sulfide from the fuel gas before it is burned; fuel gas combustion devices having a common source of fuel gas may be monitored at one location, if monitoring at this location accurately represents the concentration of hydrogen sulfide in the fuel gas burned. The span of this continuous monitoring system shall be 300 ppm.

(e) An instrument for continuously monitoring and recording concentrations of sulfur dioxide in the gases discharged into the atmosphere from any Claus sulfur recovery plant if compliance with Section 5(2) is achieved through the use of an oxidation control system or a reduction control system followed by incineration. The span of this continuous monitoring system shall be set at 500 ppm.

(f) An instrument(s) for continuously monitoring and recording the concentration of hydrogen sulfide and reduced sulfur compounds in the gases discharged into the atmosphere from any Claus sulfur recovery plant if compliance with Section 5(2) is achieved through the use of a

reduction control system not followed by incineration. The span(s) of this continuous monitoring system(s) shall be set at twenty (20) ppm for monitoring and recording the concentration of hydrogen sulfide and 600 ppm for monitoring and recording the concentration of reduced sulfur compounds.

(2) The average coke burn-off rate (thousands of kilogram/hr) and hours of operation for any fluid catalytic cracking unit catalyst regenerator subject to Sections 3 or 4 shall be recorded daily.

(3) For any fluid catalytic cracking unit catalyst regenerator which is subject to Section 3 and which utilizes an incinerator-waste heat boiler to combust the exhaust gases from the catalyst regenerator, the owner or operator shall record daily the rate of combustion of liquid or solid fossil fuels (liters/hr or kilograms/hr) and the hours of operation during which liquid or solid fossil fuels are combusted in the incinerator-waste heat boiler.

(4) For the purpose of reports under 401 KAR 59:005, Section 3, periods of excess emissions that shall be reported are defined as follows:

(a) Opacity. All one (1) hour periods which contain two (2) or more six (6) minute periods during which the average opacity as measured by the continuous monitoring system exceeds thirty (30) percent.

(b) Carbon monoxide. All hourly periods during which the average carbon monoxide concentration in the gases discharged into the atmosphere from any fluid catalytic cracking unit catalyst regenerator subject to Section 4 exceeds 0.050 percent by volume.

(c) Sulfur dioxide:

1. Any three (3) hour period during which the average concentration of hydrogen sulfide in any fuel gas combusted in any fuel gas combustion device subject to Section 5(1) exceeds 230 mg/dscm (0.10 gr/dscf), if compliance is achieved by removing hydrogen sulfide from the fuel gas before it is burned; or any three (3) hour period during which the average concentration of sulfur dioxide in the gases discharged into the atmosphere from any fuel gas combustion device subject to Section 5(1) exceeds the level specified in Section 5(1) if compliance is achieved by removing sulfur dioxide from the combusted fuel gases.

2. Any twelve (12) hour period during which the average concentration of sulfur dioxide in the gases discharged into the atmosphere from any Claus sulfur recovery plant subject to Section 5(2) exceeds 250 ppm at zero (0) percent oxygen on a dry basis if compliance with Section 5(2)(b) is achieved through the use of an oxidation control system or a reduction control system followed by incineration; or any twelve (12) hour period during which the average concentration of hydrogen sulfide or reduced sulfur compounds in the gases discharged into the atmosphere of any Claus sulfur plant subject to Section 5(2) exceeds ten (10) ppm or 300 ppm, respectively, at zero (0) percent oxygen and on a dry basis if compliance is achieved through the use of a reduction control system not followed by incineration.

(d) Any six (6) hour period during which the average emissions (arithmetic average of six (6) contiguous one (1) hour periods) of sulfur dioxide as measured by a continuous monitoring system exceed the standard under Section 5.

Section 7. Test Methods and Procedures. (1) The reference methods in Appendix A of 40 CFR 60, except as provided for in 401 KAR 50:045, shall be used to determine compliance with the provisions in Sections 3, 4 and 5 as follows:

(a) For gases released to the atmosphere from the fluid catalytic cracking unit catalyst regenerator:

1. Method 5 for the concentration of particulate matter and moisture content;
2. Method 1 for sample and velocity traverses; and
3. Method 2 for velocity and volumetric flow rate.

(b) For Method 5, the sampling time for each run shall be at least sixty (60) minutes and the sampling rate shall be at least 0.015 dscm/min (0.53 dscf/min), except that shorter sampling times may be approved by the department when process variables or other factors preclude sampling for at least sixty (60) minutes.

(c) For exhaust gases from the fluid catalytic cracking unit catalyst regenerator prior to the emission control system, the integrated sample techniques of Method 3 and Method 4 for gas analysis and moisture content, respectively; Method 1 for velocity traverses; and Method 2 for velocity and volumetric flow rate.

(d) Coke burn-off rate shall be determined by the formula in Appendix A of this regulation.

(e) Particulate emissions shall be determined by the equation in Appendix B of this regulation.

(f) For each run emissions expressed in kg/1000 kg (lb/1000 lb) of coke burn-off in the catalyst regenerator shall be determined by the equation in Appendix C of this regulation.

(g) In those instances in which auxiliary liquid or solid fossil fuels are burned in an incinerator-waste heat boiler, the rate of particulate matter emissions permitted under Section 3(2) must be determined. Auxiliary fuel heat input, expressed in millions of cal/hr (MM BTU/hr) shall be calculated for each run by fuel flow rate measurement and analysis of the liquid or solid auxiliary fossil fuels. For each run, the rate of particulate emissions permitted under Section 3(2) shall be calculated from the equation in Appendix D of this regulation.

(2) For the purpose of determining compliance with Section 4, the integrated sample technique of Method 10 shall be used. The sample shall be extracted at a rate proportional to the gas velocity at a sampling point near the centroid of the duct. The sampling time shall not be less than sixty (60) minutes.

(3) For the purpose of determining compliance with Section 5(1), Method 11 shall be used to determine the concentration of hydrogen sulfide and Method 6 shall be used to determine the concentration of sulfur dioxide.

(a) If Method 11 is used, the gases sampled shall be introduced into the sampling train at approximately atmospheric pressure. Where refinery fuel gas lines are operating at pressures substantially above atmosphere, this may be accomplished with a flow control valve. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples of equal sampling time shall contitute one (1) run. Samples shall be taken at approximately one (1) hour intervals. For most fuel gases, sample times exceeding twenty (20) minutes may result in depletion of the collecting solution, although fuel gases containing low concentrations of hydrogen sulfide may necessitate sampling for longer periods of time.

(b) If Method 6 is used, Method 1 shall be used for velocity traverses and Method 2 for determining velocity and volumetric flow rate. The sampling site for determining sulfur dioxide concentration by Method 6 shall be the

same as for determining volumetric flow rate by Method 2. The sampling point in the duct for determining sulfur dioxide concentration by Method 6 shall be at the centroid of the cross section if the cross sectional area is less than five (5) square meters (fifty-four (54) ft. squared) or at a point no closer to the walls than one (1) meter (thirty-nine (39) inches) if the cross sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples of equal sampling time shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals.

(4) For the purpose of determining compliance with Section 5(2), Method 6 shall be used to determine the concentration of sulfur dioxide and Method 15 shall be used to determine the concentration of sulfur dioxide and reduced sulfur compounds.

(a) If Method 6 is used, the procedure outlined in subsection (3)(b) of this section shall be followed except that each run shall span a minimum of four (4) consecutive hours of continuous sampling. A number of separate samples may be taken for each run, provided the total sampling time of these samples adds up to a minimum of four (4) consecutive hours. Where more than one (1) sample is used, the average sulfur dioxide concentration for the run shall be calculated as the time weighted average of the sulfur dioxide concentration for each sample according to the formula in Appendix E of this regulation.

(b) If Method 15 is used, each run shall consist of sixteen (16) samples taken over a minimum of three (3) hours. The sampling point shall be at the centroid of the cross section of the duct if the cross sectional area is less than five (5) square meters (fifty-four (54) ft. squared) or at a point no closer to the walls than one (1) meter (39 inches) if the cross sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. To insure minimum residence time for the sample inside the sample lines, the sampling rate shall be at least three (3) liters/minute (0.1 cfm). The sulfur dioxide equivalent for each run shall be calculated as the arithmetic average of the sulfur dioxide equivalent of each sample during the run. Reference Method 4 shall be used to determine the moisture content of the gases. The sampling point for Method 4 shall be adjacent to the sampling point for Method 15. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. Each run shall span a minimum of four (4) consecutive hours of continuous sampling. A number of separate samples may be taken for each run provided the total sampling time of these samples adds up to a minimum of four (4) consecutive hours. Where more than one (1) sample is used, the average moisture content for the run shall be calculated as the time weighted average of the moisture content of each sample according to the formula in Appendix F of this regulation.

(5) An owner or operator of an affected facility may request the department to determine opacity of emissions from the affected facility during any performance test covered under 401 KAR 59:005, Section 2. In such event the provisions of 401 KAR 50:055, Section 2(6) shall apply.

APPENDIX A TO 401 KAR 59:045
Formula for Coke Burn-off Rate

$$R_c = 0.2982 Q_{RE}(\%CO_2 + \%CO) + 2.088 Q_{RA} - 0.0994 Q_{RE}(\%CO/2 + \%CO_2 + \%O_2)$$

(metric units)

or

$$R_c = 0.0186 Q_{RE}(\%CO_2 + \%CO) + 0.1303 Q_{RA} - 0.0062 Q_{RE}(\%CO/2 + \%CO_2 + \%O_2)$$

(English units)

Where:

R_c = coke burn-off rate, kg/hr (lb/hr)

0.2982 = metric units material balance factor divided by 100, kg-min/hr-m^3.

0.0186 = English units material balance factor divided by 100, lb-min/hr-ft^3.

Q_{RE} = fluid catalytic cracking unit catalyst regenerator exhaust gas flow rate before entering the emission control system, as determined by Method 2, dscm/min (dscf/min).

$\%CO_2$ = percent carbon dioxide by volume, dry basis, as determined by Method 3.

$\%CO$ = percent carbon monoxide by volume dry basis, as determined by Method 3.

$\%O_2$ = percent oxygen by volume, dry basis, as determined by Method 3.

2.088 = metric units material balance factor divided by 100, kg-min/hr-m^3.

0.1303 = English units material balance factor divided by 100, lb-min/hr-ft^3

Q_{RA} = air rate to fluid catalytic cracking unit catalyst regenerator, as determined from fluid catalytic cracking unit control room instrumentation, dscm/min (dscf/min).

0.0994 = metric units material balance factor divided by 100, kg-min/hr-m^3.

0.0062 = English units material balance factor divided by 100, lb-min/hr-ft^3.

APPENDIX B TO 401 KAR 59:045
Equation to Determine Particulate Emissions

$$RE = (60 \times 10^{-6}) Q_{RV} C_s \text{ (metric units)}$$

or

$$RE = (8.57 \times 10^{-3}) Q_{RV} C_s \text{ (English units)}$$

or

RE = particulate emission rate, kg/hr (lb/hr)

Where:

60×10^{-6} = metric units conversion factor, min-kg/hr-mg.

8.57×10^{-3} = English units conversion factor, min-lb/hr-gr.

Q_{RV} = volumetric flow rate of gases discharged into the atmosphere from the fluid catalytic cracking unit catalyst regenerator following the emission control system, as determined by Method 2, dscm/min (dscf/min).

C_s = particulate emission concentration discharged into the atmosphere, as determined by Method 5, mg/dscm (gr/dscf).

APPENDIX C TO 401 KAR 59:045
Equation to Determine Emissions (expressed in kg/1000 kg of coke burn-off) in the catalyst regenerator.

$$R_s = 100\ Re/Rc \quad \text{(metric or English units)}$$

Where:
R_s = particulate emission rate, kg/1000 kg (lb/1000 lb) of coke burn-off in the fluid catalytic cracking unit catalyst regenerator.
1000 = conversion factor, kg to 1000 kg (lb to 1000 lb).
Re = particulate emission rate, kg/hr (lb/hr).
Rc = coke burn-off rate, kg/hr (lb/hr)

APPENDIX D TO 401 KAR 59:045
Equation for particulate emissions of auxiliary heat input expressed in millions of cal/hr
(English units: millions of BTU/hr)

$$R_s = 1.0 + \frac{0.18\ H}{R_c} \quad \text{(metric units)}$$

or

$$R_s = 1.0 + \frac{0.10\ H}{Rc} \quad \text{(English units)}$$

Where:
R_s = allowable particulate emission rate, kg/1000 kg (lb/1000 lb) of coke burn-off in the fluid catalytic cracking unit catalyst regenerator.
1.0 = emission standard, 1.0 kg/1000 kg (1.0 lb/1000 lb) of coke burn-off in the fluid catalytic cracking unit catalyst regenerator.
0.18 = metric units maximum allowable incremental rate of particulate emissions, g/million cal.
0.10 = English units maximum allowable incremental rate of particulate emissions, lb/million BTU.
H = heat input from solid or liquid fossil fuel, million cal/hr (million BTU/hr).
R_c = coke burn-off rate, kg/hr (lb/hr).

APPENDIX E TO 401 KAR 59:045
Equation for time weighted average of SO_2 concentration

$$C_R = \sum_{i=1}^{N} C_{Si}\ \frac{t_{Si}}{T}$$

Where:
C_R = SO_2 concentration for the run.
N = Number of samples.
C_{Si} = SO_2 Concentration for sample i.
t_{si} = Continuous sampling time of sample i.
T = Total continuous sampling time of all N samples.

APPENDIX F TO 401 KAR 59:045
Equation for the time weighted average of the moisture content.

$$B_{wo} = \sum_{i=1}^{N} B_{si}\ \frac{t_{si}}{T}$$

Where:
B_{wo} = Proportion by volume of water vapor in the gas stream for the run.
N = Number of samples.
B_{si} = Proportion by volume of water vapor in the gas stream for the sample i.
t_{si} = Continuous sampling time for sample i.
T = Total continuous sampling time of all N samples.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:065. Steel plants using new basic oxygen process furnaces.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from steel plants using new basic oxygen process furnaces.

Section 1. Applicability. Provisions of this regulation are applicable to the following affected facilities (associated with steel plants) commenced on or after the classification date defined below: basic oxygen process furnaces, associated metallurgical equipment, and dust-handling equipment.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.
(1) "Basic oxygen process furnaces (BOPF)" means any furnace producing steel by charging scrap steel, hot metal and flux materials into a vessel and introducing a high volume of an oxygen-rich gas.
(2) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the control device and located at or near the control device for a BOPF and/or associated equipment subject to this regulation.
(3) "Control device" means the air pollution control equipment used to remove from the effluent gas stream,

particulate matter generated by a BOPF and/or associated equipment.

(4) "Capture system" means the equipment (including ducts, hoods, fans, dampers, etc.) used to capture or transport particulate matter generated by a BOPF and associated equipment to the air pollution control device.

[(5)"Combusted exhaust" means that the oxidizable constituents in the furnace effluent have been combusted in the exhaust system and then cooled and cleaned for discharge to the atmosphere, with or without recuperation of the heat removed.]

[(6)"Sealed exhaust" means that the furnace effluent is isolated from the atmosphere both upstream from and at the points of removal of particulates and heat. The cooled and cleaned furnace effluent containing oxidizable constituents flows in the sealed duct that delivers it either to combustion facilities or to chemical process facilities.]

(5) [(7)] "Steel production cycle" means the operations required to produce each batch of steel and includes the following major functions: scrap preheating *(when used)*, scrap charging, hot metal charging, *primary* oxygen blowing *(when used)* and tapping.

(6) [(8)] "Startup" means the setting into the operation for the first steel production cycle of a relined BOPF or a BOPF which has been out of production for a minimum continuous time period of eight (8) hours.

(7) [(9)] "Charge" means the addition of steel scrap or other materials into a BOPF followed by molten pig iron.

[(10) "Charging period" means the time period commencing at the moment a BOPF starts to tilt to receive its charge and ending three (3) minutes after the BOPF returns to its upright position.]

(8) [(11)] "Tap" means the pouring of molten steel from a BOPF.

[(12) "Tapping period" means the time period commencing at the moment a BOPF begins to tilt to pour and ending three (3) minutes after the BOPF returns to an upright position.]

[(13) "Heat time" means the period commencing when scrap is charged to an empty BOPF and terminating when the BOPF tap is completed.]

[(14) "Operations" refer to all metallurgical processes in the shop including but not limited to scrap pre-heating, transferring hot metal, charging, blowing, de-slagging, tapping, teeming, vacuum de-gassing, continuous casting, etc.]

[(15) "Shop" means the building or bay which houses one or more BOPFs and associated equipment.]

[(16) "Shop opacity" means the arithmetic average of twenty-four (24) or more opacity observations of emissions from the shop taken in accordance with Reference Method 9 of Appendix A of 40 CFR 60, filed by reference in 401 KAR 50:015, for the applicable time periods.]

[(17) "Concentrated discharge" means that the outlet from a control device consists of either stacks (one or more) or openings on the device's top or side which has/(have) a total area less than five (5) percent of the corresponding top or side and which has/(have) a length of not more than twice the width.]

[(18) "Dispersed discharge" means that the outlet from a control device consists of opening(s) on the device's top or side which has/(have) a total area exceeding five (5) percent of the corresponding top or side or which have a length more than twice the width. An affected facility may have both dispersed and concentrated discharges.]

(9) [(19)] "Classification date" means June 11, 1973.

Section 3. Standard for Particulate Matter. On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall *discharge or cause the discharge* [cause to be discharged] into the atmosphere from a basic oxygen process furnace and/or associated metallurgical equipment located in the same shop any gases which:

(1) Exit from a control device and contain particulate matter in excess of[:]

[(a).010 gr/dscf from a combusted exhaust;]

[(b)].022 gr/dscf [from a sealed (uncombusted) exhaust].

(2) Exit from a control device and exhibit opacity of[:]

[(a)Five (5) percent or more from a combusted dispersed exhaust;]

[(b)]Ten (10) percent or more, *except that an opacity of greater than ten (10) percent but less than twenty (20) percent may occur once per steel production cycle.* [from a combusted, concentrated exhaust or from a sealed, dispersed exhaust;]

[(c) Twenty (20) percent or more from a sealed, concentrated exhaust.]

[(3) Exit from a shop and, due to operations of a BOPF and/or associated metallurgical equipment exhibit shop opacity greater than ten (10) percent.]

[(4) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from dust-handling equipment any gases which exhibit ten (10) percent opacity or greater.]

[Section 4. Standard for Carbon Monoxide. No owner or operator subject to the provisions of this regulation shall emit carbon monoxide gases generated during operation of a BOPF with sealed exhaust unless they are burned at 1,300°F for 0.5 seconds or longer in a direct flame afterburner or equivalent device equipped with a properly positioned indicating pyrometer.]

[Section 5. Emission Monitoring. (1) A continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device(s) with a concentrated discharge shall be installed, calibrated, maintained and operated by the owner or operator subject to the provisions of this regulation.]

[(2) For the purpose of reports under 401 KAR 59:005, Section 3, periods of excess emissions that shall be reported are defined as all six (6) minute periods during which the average opacity is in excess of the appropriate opacity standard in Section 3(2).]

Section *4.* [6.] Monitoring of Operations. (1) The owner or operator *of an affected facility* [subject to the provisions of this regulation] shall maintain *a single time-measuring instrument which shall be used in recording daily the time and duration of each steel production cycle, and the* [records daily of the following information:]

[(a) Time and duration of each charge;]

[(b) Time and duration of each tap;]

[(c)] Time and duration of each diversion of exhaust gases from the main stack serving *the* [each] BOPF;

[(d) All data obtained under subsection (2) of this section, or equivalent obtained under subsection (5) of this section.]

(2) *The owner or operator of any affected facility that uses venturi scrubber emission control equipment shall install, calibrate, maintain and continuously operate monitoring devices as follows* [Except as provided under subsection (5) of this section, the owner or operator subject

to the provisions of this regulation shall]:

(a) *A monitoring device for the continuous measurement of the pressure loss through the venturi construction of the control equipment.* [Install, calibrate, and maintain monitoring devices that continuously record:]

[1. The volumetric flow rate through each separately ducted BOPF hood. The monitoring device(s) may be installed in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device(s) shall have an accuracy of plus or minus ten (10) percent over its normal operating range and shall be calibrated according to the manufacturer's instructions. The department may require the owner or operator to demonstrate the accuracy of the monitoring device(s) relative to Reference Methods 1 and 2 of Appendix A of 40 CFR 60.]

[2. The pressure loss through the control device.] The monitoring device is to be certified by the manufacturer to be accurate within plus or minus *250 Pa (plus or minus one (1) inch water)* [five (5) percent of the device's rated pressure loss].

(b) A monitoring device for the continuous measurement of the water supply pressure to the control equipment. [3. the water supply pressure to the control device if the device is of the wet type.] The monitoring device is to be certified by the manufacturer to be accurate within plus or minus five (5) percent of the design water supply pressure. The monitoring device's pressure sensor or pressure tap must be located close to the water discharge point. The department may be consulted for approval of alternative locations for the pressure sensor or tap.

(c) All monitoring devices shall be synchronized each day with the time-measuring instrument used under

[(b) Synchronize each day the monitoring devices required in paragraph (a) of this subsection with the single time measuring instrument that measures the times and duration that are required by the provisions of] subsection (1) of this section. The chart recorder error directly after synchronization shall not exceed 0.08 cm (one-thirty-second of an inch).

(d) All monitoring devices shall use chart recorders which are operated

[(c)Operate the chart recorders on all monitoring devices] at a minimum chart speed of 3.8 cm/hr (1.5 in-/hr).

(e) All monitoring devices are to be recalibrated annually,

[(d)Recalibrate annually all monitoring devices,] and at other times as the department may require, in accordance with the manufacturer's recommended procedures.

(3) Any owner or operator subject to requirements under subsection (2) of this section shall report for each calendar quarter all measurements over any three-hour period that average more than ten (10) percent below the average levels maintained during the most recent performance test conducted under Section *5* [7] in which the affected facility demonstrated compliance with the standard under Section 3. The accuracy of the respective measurements *not to exceed the values specified in subsection (2)(a) and (b) of this section* may be taken into consideration when determining the measurement results that must be reported.

[(4) When the owner or operator of a BOPF is required to demonstrate compliance with the standard under Section 3(3), and at any other time the department may require, the volumetric flow rate through separately ducted BOPF hood shall be determined during all periods in which the hood is operated for the purpose of capturing emissions from the BOPF using the monitoring device under subsection (2) of this section. The owner or operator may petition the department for re-establishment of these flow rates whenever the owner or operator can demonstrate to the department's satisfaction that the BOPF operating conditions upon which the flow rates were previously established are no longer applicable. The flow rates determined during the most recent demonstration of compliance shall be maintained (or may be exceeded) at the appropriate level for each applicable period. Operation at lower flow rates may be considered by the department to be unacceptable operation and maintenance of the affected facility.]

[(5) The owner or operator may petition the department to approve any alternative method that will provide a continuous record of operation of each emission capture system.]

[(6) Where the capture system is designed and operated such that all emissions are captured and ducted to a control device, the owner or operator shall not be subject to the requirements of this section.]

Section *5.* [7.] Test Methods and Procedures. (1) Reference methods in Appendix A of 40 CFR 60, except as provided under 401 KAR 50:045, shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(a) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(b) Reference Method 1 for sample and velocity traverses[. Sampling of flue gases during each steel production cycle shall be discontinued whenever all flue gases are diverted from the stack and shall be resumed after each diversion period];

(c) Reference Method 2 for [velocity and] volumetric flow rate;

(d) Reference Method 3 for gas analysis; and

(e) Reference Method 9 for *visible emissions* [opacity determination]. For the purpose of this regulation, opacity observations taken at fifteen (15) second intervals immediately before and after a diversion of exhaust gases from the stack may be considered to be consecutive for the purpose of computing an average opacity for a six (6) minute period. Observations taken during a diversion shall not be used in determining compliance with the opacity standard.

(2) For Reference Method 5, the sampling for each run shall continue for an integral number of cycles with total duration of at least sixty (60) minutes. The sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times when necessitated by process variables or other factors, may be approved by the department. A cycle shall start at the beginning of either the scrap preheat or the oxygen blow and shall terminate immediately prior to tapping.

(3) *Sampling of flue gases during each steel production cycle shall be discontinued whenever all flue gases are diverted from the stack and shall be resumed after each diversion period* [For the purpose of this regulation, the owner or operator shall conduct the demonstration of compliance with Section 3 and furnish the department a written report of the results of the test].

[(4) During any performance test required under 401 KAR 59:005, Section 2, no gaseous diluents may be added to the effluent gas stream after any collector, unless the amount of dilution is separately determined and considered in the determination of emissions.]

[(5) When more than one (1) control device serves the BOPF being tested, the concentration of particulate matter shall be determined using the equation given in Appendix A to this regulation.]

[(6) Any control device subject to the provisions of this regulation shall be designed and constructed to allow measurement of volumetric flow rate and emissions using applicable test methods and procedures.]

[(7) Where emissions from any BOPF(s) are combined with emissions from other affected facilities in the same shop and controlled by a common capture system and control device, the owner or operator may use any of the following procedures during a performance test:]

[(a) Base compliance on control of the combined emissions;]

[(b) Utilize a method acceptable to the department which compensates for the emissions from the other affected facilities.]

[(c) Any combination of the criteria of paragraphs (a) and (b) of this subsection.]

[APPENDIX A TO 401 KAR 59:065
DETERMINATION OF PARTICULATE MATTER CONCENTRATION

$$C = \frac{\sum_{n=1}^{N} (CQ)_n}{\sum_{n=1}^{N} (Q)_n}$$

Where:

C = concentration of particulate matter in mg/dscm (gr/dscf) as determined by Method 5.

N = total number of control devices tested.

Q = volumetric flow rate of the effluent gas stream in dscm/hr (dscf/hr) as determined by Method 2.

$(CQ)_n$ or $(Q)_n$ = value of the applicable parameter for each control device tested (n).]

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:090. New ethylene producing plants.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 244.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 244.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new ethylene producing plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means each waste gas stream of any ethylene producing plant commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010. "Classification date" means April 9, 1972.

Section 3. Standard for Hydrocarbons. No person shall emit into the atmosphere a waste gas stream from any ethylene producing plant unless the waste gas stream is subjected to 1,300 degrees Fahrenheit for *0.3* [0.5] seconds or greater in a direct-flame afterburner or equally effective catalytic vapor incinerator. Either device must be quipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.

EUGENE F. MOONEY, Secretary
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401 KAR 59:105. New process gas streams.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new process gas streams.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means any process gas stream which:

(1) Is not elsewhere subject to a standard of performance within this chapter with respect to hydrogen sulfide, sulfur dioxide, or carbon monoxide;

(2) Commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Classification date" means the effective date of this regulation;

(2) "Process gas stream" means any gas stream emitted from any process including, but not limited to, petroleum refineries, by-product coke plants, grey iron cupolas, blast furnace, [and] basic oxygen steel furnace *and coal conversion plants, except process upset gas as defined in this section.*

(3) "Process upset gas" means any gas generated by a process unit as a result of startup, shutdown, upset, or malfunction.

(4) "Process unit" means any segment of the plant in which a specific processing operation is conducted.

Section 3. Standard for Hydrogen Sulfide. No person shall cause, suffer, allow or permit the emission or combustion of hydrogen sulfide in a process gas stream to ex-

ceed ten (10) grains per 100 dscf (165 ppm by volume) at zero percent oxygen *except that sources whose combined process gas stream emission rate totals less than two (2) tons per day of hydrogen sulfide shall reduce such emissions by eighty-five (85) percent.*

Section 4. Standard for Sulfur Dioxide. No person shall cause, suffer, allow or permit the emission of sulfur dioxide in a process gas stream to exceed 28.63 grains per 100 dscf (250 ppm by volume) at zero percent oxygen *except that sources whose combined process gas stream emission rate totals less than four (4) tons per day of sulfur dioxide shall reduce such emissions by eighty-five (85) percent.*

Section 5. Standard for Carbon Monoxide. [(1)] No person shall *cause, suffer, allow, or permit the emission of carbon monoxide in a process gas stream or a waste gas stream* [emit the carbon monoxide gases generated during the operation of any grey iron cupola, blast furnace, basic oxygen steel furnace or coal conversion plants] unless *the gases* [they] are burned at 1,300°F for 0.5 seconds or greater in a direct flame afterburner or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.

[(2) No person shall emit a carbon monoxide waste gas stream from any catalyst regeneration of a petroleum cracking system, petroleum fluid coker, or other petroleum process into the atmosphere, unless the waste gas stream is burned at 1,300°F for 0.5 seconds or greater in a direct flame afterburner or boiler equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.]

Section 6. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 3, 4 and 5 shall be conducted according to the following methods, filed by reference in 401 KAR 50:015:

(1) Reference Method 11 for Hydrogen Sulfide. The sample shall be drawn from a point near the centroid of the gas line. The minimum sampling time shall be ten (10) minutes and the minimum sample volume shall be 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals.

(2) Reference Method 6 for Sulfur Dioxide. Reference Method 1 shall be used for velocity traverses and Reference Method 2 for determining velocity and volumetric flow rate. The sampling site for determining sulfur dioxide concentration by Reference Method 6 shall be the same as for determining volumetric flow rate by Reference Method 2. The sampling point in the duct for determining sulfur dioxide concentration by Reference Method 6 shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (thirty-nine (39) inches) if the cross sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume shall be 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Three (3) runs will constitute compliance test. Samples shall be taken at approximately one (1) hour intervals.

EUGENE F. MOONEY, Secretary
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DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:155. New coal preparation plants.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new coal preparation plants.

Section 1. Applicability. The provisions of this regulation are applicable to any of the following affected facilities in coal preparation plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, [roads,] and coal transfer and loading systems, commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Coal preparation plant" means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.

(2) "Classification date" means October 24, 1974.

(3) "Bituminous coal" means solid fossil fuel classified as bituminous coal by A. S. T. M. Designation D-388-66(72), filed by reference in 401 KAR 50:015.

(4) "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by A. S. T. M. Designation D-388-66(72).

(5) "Cyclonic flow" means a spiraling movement of exhaust gases within a duct or stack.

(6) "Thermal dryer" means any facility in which the moisture content of bituminous coal is reduced by contact with a heated gas stream which is exhausted to the atmosphere.

(7) "Pneumatic coal-cleaning equipment" means any facility which classifies bituminous coal by size or separates bituminous coal from refuse by application of air stream(s).

(8) "Coal processing and conveying equipment" means any machinery used to reduce the size of coal or to separate coal from refuse, and the equipment used to convey coal to or remove coal and refuse from the machinery. This includes, but is not limited to, breakers, crushers, screens, and conveyor belts.

(9) "Coal storage system" means any facility used to store coal including open storage piles.

(10) "Transfer and loading system" means any facility used to transfer and load coal for shipment.

[(11)"Continuous operation" means any affected facility which operates uninterrupted for any period of time greater than one (1) minute's duration.]

[(12)"Intermittent operation" means any affected facility which operates at intervals equal to or less than one (1) minute's duration.]

Section 3. Standards for Particulate Matter. (1) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, an owner or operator subject to the provisions of this regulation shall not cause to be discharged into the atmosphere from any thermal dryer, gases which:

(a) Contain particulate matter in excess of 0.070 g/dscm (0.031 gr/dscf).

(b) Exhibit twenty (20) percent opacity or greater.

(2) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, an owner or operator subject to the provisions of this regulation shall not cause to be discharged into the atmosphere from any pneumatic coal cleaning equipment, gases which:

(a) Contain particulate matter in excess of 0.040 g/dscm (0.018 gr/dscf).

(b) Exhibit ten (10) percent opacity or greater.

(3) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, an owner or operator subject to the provisions of this regulation shall not cause to be discharged into the atmosphere from any [road,] coal processing and/or conveying equipment, coal storge system, or coal transfer and/or loading system processing coal *gases which exhibit twenty (20) percent opacity or greater.* [:]

[(a) Visible emissions from any continuous operation, equal to or greater than twenty (20) percent opacity. An average opacity will be determined by recording the opacity from the affected facility every fifteen (15) seconds for three (3) consecutive minutes and dividing the sum by the number of observations. Except for the above averaging time and corresponding number of observations, all other procedures of Reference Method 9 of Appendix A to 40 CFR 60, filed by reference in 401 KAR 50:015, shall apply;]

[(b) Visible emissions from intermittent operations, equal to or greater than twenty-five (25) percent opacity for one (1) minute. An average opacity from the affected facility will be determined by recording the opacity every fifteen (15) seconds for one (1) minute and dividing the sum by the number of observations. Except for the above averaging time and corresponding number of observations, all other procedures of Reference Method 9 of Appendix A to 40 CFR 60 shall apply;]

[(c) Visible emissions beyond the property line of the property on which the emissions originate.]

[(4) Visible emissions in excess of those specified in any one paragraph of subsection (3) of this section, or any combination of these paragraphs shall constitute a violation of that standard.]

Section 4. Monitoring of Operations. (1) The owner or operator of any thermal dryer shall install, calibrate, maintain, and continuously operate monitoring devices as follows:

(a) A monitoring device for the measurement of the temperature of the gas stream at the exit of the thermal dryer on a continuous basis. The monitoring device is to be certified by the manufacturer to be accurate within plus or minus three (3) ° Fahrenheit.

(b) For affected facilities that use venturi scrubber emission control equipment:

1. A monitoring device for the continuous measurement of the pressure loss through the venturi construction of the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within plus or minus one (1) inch water gage.

2. A monitoring device for the continuous measurement of the water supply pressure to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within plus or minus five (5) percent of design water supply pressure. The pressure sensor or tap must be located close to the water discharge point. The department may be consulted for approval of alternative locations.

(2) All monitoring devices under subsection (1) of this section are to be recalibrated annually in accordance with procedures under 401 KAR 59:005, Section 4(2).

Section 5. Test Methods and Procedures. (1) The reference methods as defined in Appendix A of 40 CFR 60 *filed by reference in 401 KAR 50:015*, except as provided in 401 KAR 50:045 and in Section 3, are to be used to determine compliance with the standards prescribed in Section 3 as follows:

(a) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(b) Reference Method 1 for sample and velocity traverses;

(c) Reference Method 2 for velocity and volumetric flow rate; [and]

(d) Reference Method 3 for gas analysis *; and* [.]

(e) Reference Method 9 for visibile emissions.

(2) For Reference Method 5, the sampling time for each run is at least sixty (60) minutes and the minimum sample volume is 0.85 dscm (thirty (30) dscf) except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the department. Sampling is not to be started until thirty (30) minutes after startup and is to be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the department.

(3) The owner or operator shall construct the facility so that particulate emissions from thermal dryers or pneumatic coal cleaning equipment can be accurately determined by applicable test methods and procedures under subsection (1) of this section.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
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DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
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As Amended

401 KAR 59:160. New ferroalloy production facilities.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new ferroalloy production facilities.

Section 1. Applicability. The provisions of this regulation are applicable to the following affected facilities: elec-

tric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, or calcium carbide; and dust-handling equipment, commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Electric submerged arc furnace" means any furnace wherein electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.

(2) "Furnace charge" means any material introduced into the electric submerged arc furnace and may consist of, but is not limited to, ores, slag, carbonaceous material, and limestone.

(3) "Product change" means any change in the composition of the furnace charge that would cause the electric submerged arc furnace to become subject to a different mass standard applicable under this regulation.

(4) "Slag" means the more or less completely fused and vitrified matter separated during the reduction of metal from its ore.

(5) "Tapping" means the removal of slag or product from the electric submerged arc furnace under normal operating conditions such as removal of metal under normal pressure and movement by gravity down the spout into the ladle.

(6) "Tapping period" means the time duration from initiation of the process of opening the tap hole until plugging of the tap hole is complete.

(7) "Furnace cycle" means the time period from completion of a furnace product tap to the completion of the next consecutive product tap.

(8) "Tapping station" means that general area where molten product or slag is removed from the electric submerged arc furnace.

(9) "Blowing tap" means any tap in which an evolution of gas forces or projects jets of flame or metal sparks beyond the ladle, runner or collection hood.

(10) "Furnace power input" means the resistive electrical power consumption of an electric submerged arc furnace as measured in kilowatts.

(11) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the air pollution control device (and located at or near such device) serving any electric submerged arc furnace subject to this regulation.

(12) "Control device" means the air pollution control equipment used to remove particulate matter generated by an electric submerged arc furnace from an effluent gas stream.

(13) "Classification date" means October 21, 1974.

(14) "Capture system" means the equipment (including hoods, ducts, fans, dampers, etc.) used to capture or transport particulate matter generated by an effected electric submerged arc furnace to the control device.

(15) "Standard ferromanganese" means that alloy as defined by A.S.T.M. designation A-99-66(71). (A.S.T.M. designations are filed by reference in 401 KAR 50:015.)

(16) "Silicomanganese" means that alloy as defined by A.S.T.M. designation A-483-64(74).

(17) "Calcium carbide" means material containing seventy (70) to eighty-five (85) percent calcium carbide by weight.

(18) "High-carbon ferrochrome" means that alloy as defined by A.S.T.M. designation A-101-73 grades HC1 through HC6.

(19) "Charge chrome" means that alloy containing fifty-two (52) to seventy (70) percent by weight chromium, five (5) to eight (8) percent by weight carbon, and three (3) to six (6) percent by weight silicon.

(20) "Silvery iron" means any ferrosilicon, as defined by A.S.T.M. designation A-100-69(74), which contains less than thirty (30) percent silicon.

(21) "Ferrochrome silicon" means that alloy as defined by A.S.T.M. designation A-482-66(71).

(22) "Silicomanganese zirconium" means that alloy containing sixty (60) to sixty-five (65) percent by weight silicon, 1.5 to 2.5 percent by weight calcium, five (5) to seven (7) percent by weight zirconium, 0.75 to 1.25 percent by weight aluminum, five (5) to seven (7) percent by weight manganese, and two (2) to three (3) percent by weight barium.

(23) "Calcium silicon" means that alloy as defined by A.S.T.M. designation A-495-64(70).

(24) "Ferrosilicon" means that alloy as defined by A.S.T.M. designation A-100-69 grades A, B, C, D, and E which contains fifty (50) or more percent by weight silicon.

(25) "Silicon metal" means any silicon alloy containing more than ninety-six (96) percent silicon by weight.

(26) "Ferromanganese silicon" means that alloy containing sixty-three (63) to sixty-six (66) percent by weight manganese, twenty-eight (28) to thirty-two (32) percent by weight silicon, and a maximum of 0.08 percent by weight carbon.

(27) "Concentrated discharge" means that the outlet from a control device consists of either stacks (one (1) or more) or openings on the device's top or side which has (have) a total area less than five (5) percent of the corresponding top or side and which has (have) a length of not more than twice the width.

(28) "Dispersed discharge" means that the outlet from a control device consists of opening(s) on the device's top or side which has (have) a total area exceeding five (5) percent of the corresponding top or side or which have a length more than twice the width. A control device may have both dispersed and concentrated discharges.

Section 3. Standard for Particulate Matter. (1) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which:

(a) Exit from a control device and contain particulate matter in excess of:

1. 0.45 kg/MW-hr (0.99 lb/MW-hr) while silicon metal, ferrosilicon, calcium silicon, or silicomanganese zirconium is being produced.

2. 0.23 kg/MW-hr (0.51 lb/MW-hr) while high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, calcium carbide, ferrochrome silicon, ferromanganese silicon, or silvery iron is being produced.

(b) Exit from a control device and exhibit an opacity equal to or greater than:

1. Three (3) percent where a control device *located in or impacting on a non-attainment area for particulates* has dispersed discharge.

2. Fifteen (15) percent *for all other control devices* [where control device has concentrated discharge].

(c) Exit from an electric submerged arc furnace and escape the capture system and are visible without the aid of instruments. The requirements under this paragraph apply

only during periods when flow rates are being established under Section 6(4).

(d) Escape the capture system at the tapping station and are visible without the aid of instruments for more than forty (40) percent of each tapping period. There are no limitations on visible emissions under this paragraph when a blowing tap occurs. The requirements under this paragraph apply only during periods when flow rates are being established under Section 6(4).

(2) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any dust-handling equipment any gases which exhibit ten (10) percent opacity or greater.

Section 4. Standard for Carbon Monoxide. On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which contain, on a dry basis, twenty (20) or greater volume percent of carbon monoxide. Combustion of such gases under conditions acceptable to the department constitutes compliance with this section. Acceptable conditions include, but are not limited to, flaring of gases or use of gases as fuel or other processes.

Section 5. Emissions Monitoring. (1) The owner or operator subject to the provisions of this regulation shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device(s) with a concentrated discharge.

(2) For the purpose of reports required under 401 KAR 59:005, Section 3, the owner or operator shall report as excess emissions all six (6) minute periods in which the average opacity is fifteen (15) percent or greater.

(3) The owner or operator subject to the provisions of this regulation shall submit a written report of any product change to the department. Reports of product changes must be postmarked not later than thirty (30) days after implementation of the product change.

Section 6. Monitoring of Operations. (1) The owner or operator of any electric submerged arc furnace subject to the provisions of this regulation shall maintain daily records of the following information:

(a) Product being produced;

(b) Description of constituents of furnace charge, including the quantity, by weight;

(c) Time and duration of each tapping period and the identification of material tapped (slag or product);

(d) All furnace power input data obtained under subsection (2) of this section;

(e) All flow rate data obtained under subsection (3) of this section or all fan motor power consumption and pressure drop data obtained under subsection (5) of this section.

(2) The owner or operator subject to the provisions of this regulation shall install, calibrate, maintain and operate a device to measure and continuously record the furnace power input. The furnace power input may be measured at the output or input side of the transformer. The device must have an accuracy of plus or minus five (5) percent over its operating range.

(3) The owner or operator subject to the provisions of this regulation shall install, calibrate, and maintain a monitoring device that continuously measures and records the volumetric flow rate through each separately ducted hood of the capture system, except as provided under subsection (5) of this section. The owner or operator of an electric submerged arc furnace that is equipped with a water cooled cover which is designed to contain and prevent escape of the generated gas and particulate matter shall monitor only the volumetric flow rate through the capture system for control of emissions from the tapping station. The owner or operator may install the monitoring device(s) in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device must have an accuracy of plus or minus ten (10) percent over its normal operating range and must be calibrated according to the manufacturer's instructions. The department may require the owner or operator to demonstrate the accuracy of the monitoring device relative to Reference Methods 1 and 2 of Appendix A to 40 CFR 60, filed by reference in 401 KAR 50:015.

(4) When performance tests are conducted under the provisions of 401 KAR 59:005, Section 2, to demonstrate compliance with the standards under Section 3(1)(c) and (d), volumetric flow rate through each separately ducted hood of the capture system must be determined using the monitoring device required under subsection (3) of this section. The volumetric flow rates must be determined for furnace power input levels at fifty (50) and 100 percent of the nominal rated capacity of the electric submerged arc furnace. At all times the electric submerged arc furnace is operated, the owner or operator shall maintain the volumetric flow rate at or above the appropriate levels for that furnace power input level determined during the most recent performance test. If emissions due to tapping are captured and ducted separately from emissions of the electric submerged arc furnace, during each tapping period the owner or operator shall maintain the exhaust flow rates through the capture system over the tapping station at or above the levels established during the most recent performance test. Operation at lower flow rates may be considered by the department to be unacceptable operation and maintenance of the affected facility. The owner or operator may request that these flow rates be re-established by conducting new performance tests under 401 KAR 59:005, Section 2.

(5) The owner or operator may as an alternative to subsection (3) of this section determine the volumetric flow rate through each fan of the capture system from the fan power consumption, pressure drop across the fan and the fan performance curve. Only data specific to the operation of the affected electric submerged arc furnace are acceptable for demonstration of compliance with the requirements of this section. The owner or operator shall maintain on file a permanent record of the fan performance curve (prepared for a specific temperature) and shall:

(a) Install, calibrate, maintain, and operate a device to continuously measure and record the power consumption of the fan motor (measured in kilowatts); and

(b) Maintain and operate a device to continuously measure and record the pressure drop across the fan. The fan power consumption and pressure drop measurements must be synchronized to allow real time comparisons of the data. The monitoring devices must have an accuracy of plus or minus five (5) percent over their normal operating ranges.

(6) The volumetric flow rate through each fan of the capture system must be determined from the fan power consumption, fan pressure drop, and fan performance curve specified under subsection (5) of this section, during

any performance test required under 401 KAR 59:005, Section 2, to demonstrate compliance with the standards under Section 3(1)(c) and (d). The owner or operator shall determine the volumetric flow rate at a representative temperature for furnace power input levels of fifty (50) and 100 percent of the nominal rated capacity of the electric submerged arc furnace. At all times the electric submerged arc furnace is operated, the owner or operator shall maintain the fan power consumption and fan pressure drop at levels such that the volumetric flow rate is at or above the levels established during the most recent performance test for that furnace power input level. If emissions due to tapping are captured and ducted separately from the emissions of the electric submerged arc furnace, during each tapping period the owner or operator shall maintain the fan power consumption and fan pressure drop at levels such that the volumetric flow rate is at or above the levels established during the most recent performance test. Operation at lower flow rates may be considered by the department to be unacceptable operation and maintenance of the affected facility. The owner or operator may request that these flow rates be re-established by conducting new performance tests under 401 KAR 59:005, Section 2. The department may require the owner or operator to verify the fan performance curve by monitoring necessary fan operating parameters and determining the gas volume moved relative to Methods 1 and 2 of Appendix A to 40 CFR 60.

(7) All monitoring devices required under subsections (3) and (5) of this section are to be checked for calibration annually in accordance with the procedures under 401 KAR 59:005, Section 4(2).

Section 7. Test Methods and Procedures. (1) The reference methods as defined in Appendix A of 40 CFR 60, except as provided in 401 KAR 50:045, shall be used to determine compliance with the standards prescribed in Sections 3 and 4 as follows:

(a) Reference Method 5 for the concentration of particulate matter and the associated moisture content except that the heating systems specified in paragraphs 2.1.2 and 2.1.4 of Reference Method 5 are not to be used when the carbon monoxide content of the gas stream exceeds ten (10) percent by volume, dry basis;

(b) Reference Method 1 for sample and velocity flow rate;

(c) Reference Method 2 for velocity and volumetric flow rate;

(d) Reference Method 3 for gas analysis, including carbon monoxide; and

(e) Reference Method 9 for opacity determination.

(2) For Reference Method 5, the sampling time for each run is to include an integral number of furnace cycles. The sampling time for each run must be at least sixty (60) minutes and the minimum sample volume must be 1.8 dscm (sixty-four (64) dscf) when sampling emissions from open electric submerged arc furnaces with wet scrubber control devices, sealed electric submerged arc furnaces, or semi-enclosed electric submerged arc furnaces. When sampling emissions from other types of installations, the sampling time for each run must be at least 200 minutes and the minimum sample volume must be 5.7 dscm (200 dscf). Shorter sampling times or smaller sampling volumes, when necessitated by process variables or other factors, may be approved by the department.

(3) During the performance test, the owner or operator shall record the maximum open hood area (in hoods with segmented or otherwise moveable sides) under which the process is expected to be operated and remain in compliance with all standards. Any future operation of the hooding system with open areas in excess of the maximum is not permitted.

(4) The owner or operator shall construct the control device so that volumetric flow rates and particulate matter emissions can be accurately determined by applicable test methods and procedures.

(5) During any performance test required under 401 KAR 59:005, Section 2, the owner or operator shall not allow gaseous diluents to be added to the effluent gas stream after the fabric in an open pressurized fabric filter collector unless the total gas volume flow from the collector is accurately determined and considered in the determination of emissions.

(6) When compliance with Section 4 is to be attained by combusting the gas stream in a flare, the location of the sampling site for particulate matter is to be upstream of the flare.

(7) For each run, particulate matter emissions, expressed in kg/hr (lb/hr), must be determined for each exhaust stream at which emissions are quantified using the equation given in Appendix A to this regulation.

(8) For Method 5, particulate matter emissions from the affected facility, expressed in kg/MW-hr (lb/MW-hr) must be determined for each run using the equation given in Appendix B to this regulation.

APPENDIX A TO 401 KAR 59:160
DETERMINATION OF PARTICULATE MATTER EMISSIONS

$$En = C\ Q$$

Where:

En = Emissions of particulate matter in kg/hr (lb/hr).

C = Concentration of particulate matter in kg/dscm (lb/dscf) as determined by Reference Method 5.

Q = Volumetric flow rate of the effluent gas stream as dscm/hr (dscf/hr) as determined by Reference Method 2.

APPENDIX B TO 401 KAR 59:160
DETERMINATION OF PARTICULATE MATTER EMISSIONS FOR METHOD 5

$$E = \frac{\sum_{n=1}^{N} E_n}{P}$$

Where:

E = Emissions of particulate from the affected facility in kg/MW-hr (lb/MW-hr).

N = Total number of exhaust streams at which emissions are quantified.

E_n = Emission of particulate matter from each exhaust stream in kg/hr (lb/hr), as determined in Section 7(7).

P = Average furnace power input during the sampling period, in megawatts as determined according to Section 6(2).

EUGENE F. MOONEY, Secretary

ADOPTED: March 26, 1979

RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:165. Steel plants and foundries using new electric arc furnaces.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from steel plants and foundries using new electric arc furnaces and associated metallurgical equipment.

Section 1. Applicability. The provisions of this regulation apply to the following affected facilities in steel plants and foundries: electric arc furnaces and/or associated metallurgical equipment located in the same shop as well as associated dust handling equipment commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Electric arc furnace (EAF)" means any furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes. Furnaces from which the molten steel is cast into the shape of finished products, such as in a foundry, are affected facilities included within the scope of this definition. Furnaces which, as the primary source of iron, continuously feed prereduced ore pellets are not affected facilities within the scope of this definition.

(2) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the control device and located at or near the control device for an EAF subject to this regulation.

(3) "Control device" means the air pollution control equipment used to remove particulate matter generated by an EAF(s) from the effluent gas stream.

(4) "Capture system" means the equipment (including ducts, hoods, fans, dampers, etc.) used to capture or transport particulate matter generated by an EAF and associated metallurgical equipment to the air pollution control device.

(5) "Associated metallurgical equipment" in the shop includes but is not limited to scrap pre-heaters and degreasers, and equipment for hot metal transfer, charging, lancing, boiling, slagging, and de-slagging, tapping, innoculating, teeming, hot-topping, vacuum de-gassing, continuous casting, etc.

(6) "Charge" means the addition of iron and steel scrap or other materials into the top of an electric arc furnace.

(7) "Charging period" means the time period commencing at the moment an EAF starts to open and ending either three (3) minutes after the EAF roof is returned to its closed position or six (6) minutes after commencement of opening of the roof, whichever is longer.

(8) "Tap" means the pouring of molten steel from an EAF.

(9) "Tapping period" means the time period commencing at the moment an EAF begins to tilt to pour and ending either three (3) minutes after an EAF returns to an upright position or six (6) minutes after commencing to tilt, whichever is longer.

(10) "Meltdown and refining" means the phase of the steel production cycle when charge material is melted and undesirable elements are removed from the metal.

(11) "Meltdown and refining period" means the time period commencing at the termination of the initial charging period and ending at the initiation of the tapping period, excluding any intermediate charging period.

(12) "Shop opacity" means the arithmetic average of twenty-four (24) or more opacity observations of emissions from the shop taken in accordance with Reference Method 9 of Appendix A of 40 CFR 60, filed by reference in 401 KAR 50:015, for the applicable time periods.

(13) "Heat time" means the period commencing when scrap is charged to an empty EAF and terminating when the EAF tap is completed.

(14) "Shop" means the building which houses one or more EAF.

(15) "Direct shell evacuation system" means any system that maintains a negative pressure within the EAF above the slag or metal and ducts these emissions to the control device.

(16) "Concentrated discharge" means that the outlet from a control device consists of either stacks (one (1) or more) or openings on the device's top or side which has (have) a total area less than five (5) percent of the corresponding top or side and which has (have) a length of not more than twice the width.

(17) "Dispersed discharge" means that the outlet from a control device consists of opening(s) on the device's top or side which has (have) a total area exceeding five (5) percent of the corresponding top or side or which have a length more than twice the width.

(18) "Classification date" means October 21, 1974.

Section 3. Standard for Particulate Matter. (1) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from an electric arc furnace and associated metallurgical equipment any gases which:

(a) Exit from a control device and contain particulate matter in excess of 0.0052 grains/dscf (twelve (12) mg/dscm);

(b) Exit from a control device and exhibit *three (3) percent* opacity *or greater* [in excess of:] .

[1. Three (3) percent for a control device with a concentrated discharge.]

[2. Zero (0) percent for a control device with a dispersed discharge.]

(c) Exit [directly] from a shop and, *due solely to operations of any EAF(s),* exhibit [an opacity] greater than zero (0) percent *shop opacity* except:

1. Shop opacity *greater than zero (0) percent, but* less than twenty (20) percent may occur [which is caused by an EAF] during [its] charging period*s*.

2. Shop opacity *greater than zero (0) percent, but* less than *forty (40)* [thirty (30)] percent may occur [which is produced by an EAF] during [its] tapping period*s*.

3. Where the capture system is operated such that the roof of the shop is closed during the charge and the tap, and emissions to the atmosphere are prevented until the roof is opened after completion of the charge or tap, the shop opacity standards under paragraph (c) of this subsection shall apply when the roof is opened and shall continue to apply for the length of time defined by the charging and/or tapping periods.

4. Opacity standards under paragraph (c) of this subsection shall apply only during periods when flow rates and pressure are being established under Section 5(3) and (6).

(2) On and after the date on which the performance test required to be conducted by 401 KAR 59:005, Section 2, is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from dust-handling equipment any gases which exhibit ten (10) percent opacity or greater.

Section 4. Emission Monitoring. (1) A continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device(s) with a concentrated discharge shall be installed, calibrated, maintained and operated by the owner or operator subject to the provisions of this regulation.

(2) For the purpose of reports under 401 KAR 59:005, Section 3, periods of excess emissions that shall be reported are defined as all six (6) minute periods during which the average opacity is three (3) percent or greater.

Section 5. Monitoring of Operations. (1) The owner or operator subject to the provisions of this regulation shall maintain records daily of the following information:

(a) Time and duration of each charge;

(b) Time and duration of each tap;

(c) All flow rate data obtained under subsection (2) of this section or equivalent obtained under subsection (4) of this section; and

(d) All pressure data obtained under subsection (5) of this section.

(2) Except as provided under subsection (4) of this section, the owner or operator subject to the provisions of this regulation shall install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood. The monitoring device(s) may be installed in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device(s) shall have an accuracy of plus or minus ten (10) percent over its normal operating range and shall be calibrated according to the manufacturer's instructions. The department may require the owner or operator to demonstrate the accuracy of the monitoring device(s) relative to Reference Methods 1 and 2 of Appendix A of 40 CFR 60.

(3) When the owner or operator of an EAF is required to demonstrate compliance with the standard under Section 3(1)(c), and at any other time the department may require; the volumetric flow rate through each separately ducted hood shall be determined during all periods in which the hood is operated for the purpose of capturing emissions from the EAF using the monitoring device under subsection (2) of this section. The owner or operator may petition the department for re-establishment of these flow rates whenever the owner or operator can demonstrate to the department's satisfaction that the EAF operating conditions upon which the flow rates were previously established are no longer applicable. The flow rates determined during the most recent demonstration of compliance shall be maintained (or may be exceeded) at the appropriate level for each applicable period. Operation at lower flow rates may be considered by the department to be unacceptable operation and maintenance of the affected facility.

(4) The owner or operator may petition the department to approve any alternative method that will provide a continuous record of operation of each emission capture system.

(5) Where emissions during any phase of the heat time are controlled by use of a direct shell evacuation system, the owner or operator shall install, calibrate and maintain a monitoring device that continuously records the pressure in the free space inside the EAF. The pressure shall be recorded as fifteen (15) minute integrated averages. The monitoring device may be installed in any appropriate location in the EAF such that reproducible results will be obtained. The pressure monitoring device shall have an accuracy of plus or minus five (5) mm of water gauge over its normal operating range and shall be calibrated according to the manufacturer's instructions.

(6) When the owner or operator of an EAF is required to demonstrate compliance with the standard under Section 3(1)(c) and at any other time the department may require, the pressure in the free space inside the furnace shall be determined during the meltdown and refining period(s) using the monitoring device under subsection (5) of this section. The owner or operator may petition the department for re-establishment of the fifteen (15) minute integrated average pressure whenever the owner or operator can demonstrate to the department's satisfaction that the EAF operating conditions upon which the pressures were previously established are no longer applicable. The pressure determined during the most recent demonstration of compliance shall be maintained at all times the EAF is operating in a meltdown and refining period. Operation at higher pressures may be considered by the department to be unacceptable operation and maintenance of the affected facility.

(7) Where the capture system is designed and operated such that all emissions are captured and ducted to a control device, the owner or operator shall not be subject to the requirements of this section.

(8) Where each EAF in a shop has an actual tapping capacity of less than ten (10) tons, the owner or operator shall not be subject to the requirements of this section.

Section 6. Test Methods and Procedures. (1) The reference methods as defined in Appendix A of 40 CFR 60, except as provided for in 401 KAR 50:045, shall be used to determine compliance with the standard prescribed in Section 3 as follows:

(a) Reference Method 5 for concentration of particulate matter and associated moisture content;

(b) Reference Method 1 for sample and velocity traverses;

(c) Reference Method 2 for velocity and volumetric flow rate;

(d) Reference Method 3 for gas analysis; and

(e) Reference Method 9 for opacity determination.

(2) For Reference Method 5, the sampling time for each run shall be at least four (4) hours. When a single EAF is sampled, the sampling time for each run shall also include an integral number of heats. Shorter sampling times, when necessitated by process variables or other factors, may be approved by the department. The minimum sample volume shall be 4.5 dscm (160 dscf).

(3) For the purpose of this regulation, the owner or operator shall conduct the demonstration of compliance with Section 3(1)(c) and furnish the department a written report of the results of the test.

(4) During any performance test required under 401 KAR 59:005, Section 2, no gaseous diluents may be added to the effluent gas stream after the fabric in any pressurized fabric filter collector, unless the amount of dilution is separately determined and considered in the determination of emissions.

(5) When more than one (1) control device serves the EAF(s) being tested, the concentration of particulate matter shall be determined using the equation given in Appendix A of this regulation.

(6) Any control device subject to the provisions of this regulation shall be designed and constructed to allow measurement of volumetric flow rate and emissions using applicable test methods and procedures.

(7) Where emissions from any EAF(s) are combined with emissions from other affected facilities in the same shop and controlled by a common capture system and control device, the owner or operator may use any of the following procedures during a performance test:

(a) Base compliance on control of the combined emissions;

(b) Utilize a method acceptable to the department which compensates for the emissions from the other affected facilities; and

(c) Any combination of the criteria of paragraphs (a) and (b) of this subsection.

Section 7. 401 KAR 3:050 is hereby repealed.

APPENDIX A TO 401 KAR 59:165
DETERMINATION OF CONCENTRATION
OF PARTICULATE MATTER

$$C = \frac{\sum_{n=1}^{N} (C\ Q)_n}{\sum_{n=1}^{N} (Q)_n}$$

Where:

C = concentration of particulate matter in mg/dscm (gr/dscf) as determined by Reference Method 5.

N = total number of control devices tested.

Q = volumetric flow rate of the effluent gas stream in dscm/hr (dscf/hr) as determined by Reference Method 2.

$(C\ Q)_n$ or $(Q)_n$ = value of the applicable parameter for each control device tested (n).

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 59:175. New service stations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new service stations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility located in *urban* counties designated non-attainment for ozone according to 401 KAR 51:010 which commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means the gasoline storage tanks at a service station.

(2) "Classification date" means the effective date of this regulation.

(3) "Service station" means any public or private establishment which dispenses gasoline into vehicle fuel tanks.

(4) "Submerged fill pipe" means any fill pipe the discharge of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge opening of which is entirely submerged when the liquid level is two (2) times the fill pipe diameter above the bottom of the tank.

(5) "Vapor balance system" means a system which conducts vapors displaced from storage tanks during filling operations to the storage compartment of the transport vehicle delivering the fuel.

(6) "Vent line restriction" means:

(a) An orifice of one-half (½) to three-quarters (¾) inch inside diameter;

(b) A pressure-vacuum relief valve set to open at eight (8) oz. per square inch pressure and four (4) oz. per square inch vacuum; or

(c) A vent shut-off valve which is activated by connection of the vapor return hose.

(7) "Interlocking system" means devices which keep the storage tank sealed unless the vapor hose is connected or which prevent delivery of fuel until the vapor hose is connected.

Section 3. Standard for Volatile Organic Compounds. (1) The owner or operator of an affected facility shall install, maintain, and operate the following devices:

(a) Submerged fill pipe;

(b) Gauge well drop tube which extends to within six (6) inches of the bottom of the tank;

(c) Vent line restriction on the affected facility vent line; and

(d) Vapor balance system with an interlocking system and vapor tight connections on the liquid fill line and the vapor return line. The cross-sectional area of the vapor return hose must be at least fifty (50) percent of the liquid fill hose, and free of flow restrictions to achieve acceptable recovery. The size and design of the vapor return line and connections, including coaxial systems, are subject to the approval of the department.

(2) The owner or operator may elect to use an alternate control system if that system can be demonstrated to the department's satisfaction to achieve an equivalent control efficiency.

(3) The owner or operator shall not allow any transport vehicle to deliver fuel to an affected facility until the transport vehicle is properly connected to the vapor balance system or alternate control system.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:015. Existing indirect heat exchangers.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing indirect heat exchangers.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the applicable classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 and 401 KAR 50:025.

(1) "Affected facility" means an indirect heat exchanger having a heat input capacity of more than one (1) million BTU per hour.

(2) "Indirect heat exchanger" means any piece of equipment, apparatus, or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(3) "Classification date" means:

(a) August 17, 1971, for affected facilities with a capacity of more than 250 million BTU per hour heat input;

(b) April 9, 1972, for affected facilities with a capacity of 250 million BTU per hour heat input or less.

Section 3. Method for Determining Allowable Emission Rates. (1) Except as provided in subsection (3) of this section, the total rated heat input capacity of all affected facilities, commenced before the applicable classification date within a source shall be used as specified in Sections 4 and 5 to determine the allowable emission in terms of pounds of effluent per million BTU heat input.

(2) At such time as any affected facility is assigned an allowable emission rate by the department, at no time thereafter shall that rate be changed due to inclusion or shutdown of any affected facility at the source.

(3) (a) A source may petition the department to establish an allowable emission rate which may be apportioned without regard to individual affected facility heat input provided that the conditions specified in paragraphs (b), (c), (d), *and* (e)[, and (f)] of this subsection are met. Such allowable emission rate shall be determined according to the following equation:

$$F = (AB + DE)/C$$

Where:

A = the allowable emission rate (in pounds [of effluent] per milion BTU input), as determined according to 401 KAR 59:015, Section 3(1);

B = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced on or after the applicable classification date within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the department;

C = the total rated heat input (in millions of BTU per hour) of all affected facilities within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the department;

D = the total emission rate (in pounds [of effluent] per million BTU input) as determined according to subsection (1) of this section;

E = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced before the applicable classification date;

F = the alternate allowable emission rate (in pounds [of effluent] per actual million BTU input).

(b) At no time shall the owner or operator of the source allow the total emissions (in pounds [of effluent] per hour) from all affected facilities within the source divided by the total actual heat input (in millions of BTU per hour) of all affected facilities within the source to exceed the alternate allowable emission rate as determined by paragraph (a) of this subsection.

(c) At no time shall the owner or operator of *any* [the] source *subject to federal new source performance standards* allow the emissions from any affected facility commenced on or after the applicable classification date to exceed the allowable emission rate determined by use of that affected facility's rated heat input (instead of the heat input as determined by subsection (1), of this section) as specified in 401 KAR 59:015, Sections 4 and 5.

(d) The owner or operator of the source must demonstrate compliance with this subsection by conducting a performance test according to 401 KAR 50:045 on each affected facility under such conditions as may be specified by the department.

(e) Upon petition, the department will establish an alternate emission rate in accordance with this subsection if the owner or operator demonstrates to the department's satisfaction that the source will maintain compliance with this subsection on a continual basis.

Section 4. Standard for Particulate Matter. Except as provided for in Section 3(3), no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility:

(1) Particulate matter in excess of that specified in Appendix A, of this regulation;

(2) Emissions which exhibit greater than twenty (20) percent opacity in regions classified as Priority I with respect to particulate matter, except:

(a) That, for cyclone or pulverized fired indirect heat exchangers, a maximum of forty (40) percent opacity shall be permissible for not more than two (2) consecutive minutes in any sixty (60) consecutive minutes;

(b) That, for stoker fired indirect heat exchangers, a maximum of forty (40) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of forty (40) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned;

(c) For emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

(3) Emissions which exhibit greater than forty (40) percent opacity in regions classified as Priority II or III with respect to particulate matter except:

(a) That, for cyclone or pulverized fired indirect heat ex-

changers, a maximum of sixty (60) percent opacity shall be permissible for not more than two (2) consecutive minutes in any sixty (60) consecutive minutes;

(b) That, for stoker fired indirect heat exchangers, a maximum of sixty (60) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of sixty (60) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned;

(c) For emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

(4) The emission limitations contained in other subsections of this section shall not apply to any affected facility (with more than 250 million BTU per hour heat input capacity which was in being or under construction before August 17, 1971, or any affected facility with 250 million BTU per hour capacity or less which was in being or under construction prior to April 9, 1972) if that affected facility was in compliance prior to April 9, 1972, with, or has a valid permit to operate within the provisions of the previous Kentucky Air Pollution Control Commission Regulation No. 7 entitled "Prevention and Control of Emissions of Particulate Matter from Combustion of Fuel in Indirect Heat Exchangers." These affected facilities shall comply with the emission limitations in that regulation except that replacement of the particulate emissions control device associated with the affected facility shall subject it to the standard contained in this section.

Section 5. Standard for Sulfur Dioxide. (1) Except as provided for in Section 3(3), no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility, any gases which contain sulfur dioxide in excess of that specified in Appendix B of this regulation.

(2) When different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the following formula:

Allowable Sulfur Dioxide Emission,

$$\text{lb/MM BTU} = \frac{y\,(a) + z\,(b)}{y + z}$$

Where:

y is the percent of total heat input derived from liquid or gaseous fuel;

z is the percent of total heat input derived from solid fuel;

a is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from liquid or gaseous fuel; and

b is the allowable sulfur dioxide emissions in pounds per million BTU heat input derived from solid fuel.

(3) Compliance shall be based on the total heat input from all fuels burned, including gaseous fuels.

(4) In counties classified as VA with respect to sulfur dioxide, for sources having a total heat input greater than fifteen hundred million BTU per hour (1500 MM BTU/hr.) as determined by Section 3(1), no owner or operator shall allow the annual average sulfur dioxide emission rate from all existing and new affected facilities combined at the source to exceed 0.60 pounds per million BTU.

Section 6. Monitoring of Operations. (1) The sulfur content of solid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(2) The sulfur content of liquid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(3) The rate of fuel burned for each fuel shall be measured daily or at shorter intervals and recorded. The heating value and ash content of fuels shall be ascertained at least once per week and recorded. Where the indirect heat exchanger is used to generate electricity, the average electrical output and the minimum and maximum hourly generation rate shall be measured and recorded daily.

(4) The owner or operator of any indirect heat exchanger of more than 250 million BTU per hour heat input subject to the provisions of this regulation shall maintain a file of all measurements required by this regulation and summarized monthly. The record of any such measurement(s) and summary shall be retained for at least two (2) years following the date of such measurements and summaries.

(5) The department may require for any indirect heat exchanger of less than 250 million BTU per hour heat input any or all the fuel monitoring required by this section.

(6) For an indirect heat exchanger that does not use a flue gas desulfurization device, a continuous monitoring system as specified in 401 KAR 61:005 for measuring sulfur dioxide emissions is not required if the owner or operator monitors such emissions by fuel sampling and analysis pursuant to Section 7(6) of 401 KAR 59:015.

Section 7. Test Methods and Procedures. (1) Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 4 and 5 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):

(a) Reference Method 1 for the selection of sampling site and sample traverses.

(b) Reference Method 3 for gas analysis to be used when applying Reference Methods *5,* 6 and 7[, and Kentucky Method 50].

(c) *Reference Method 5* [Kentucky Method 50] for the concentration of particulate matter and the associated moisture content.

(d) Reference Method 6 for the concentration of sulfur dioxide.

(e) Reference Method 7 for the concentration of nitrogen oxides.

(2) For *Reference Method 5* [Kentucky Method 50], Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sampling volume shall be 0.85 dscm (thirty (30) dscf) except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the department. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than *160°C (320°F)* [120°C (248°F)].

(3) For Reference Methods 6 and 7, the sampling site shall be the same as that selected for *Reference Method 5* [Kentucky Method 50]. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (3.28 ft.). For Reference Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(4) For Reference Method 6, the minimum sampling time shall be twenty (20) minutes and the minimum sampling volume shall be 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately thirty (30) minute intervals.

(5) For Reference Method 7, each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals. The arithmetic mean of the samples shall constitute the run value.

(6) For each run using the methods specified by subsection (1)(c), (d), and (e) of this section, the emissions expressed in g/million cal (lb/million BTU) shall be determined by the following equation:

$$E = CF \frac{20.9}{20.9 - \%O_2}$$

Where:

E = pollutant emission g/million cal (lb/million BTU).

C = pollutant concentration, g/dscm (lb/dscf) determined by [Kentucky Method 50 and] Reference Method *5*, 6 or 7.

F = a factor as determined in 401 KAR 59:015, Section 7.

$\%O_2$ = oxygen content by volume (expressed as percent), dry basis.

Percent oxygen shall be determined by using the integrated or grab sampling and analysis procedures for Reference Method 3 as applicable. The sample shall be obtained as follows:

1. For determination of sulfur dioxide and nitrogen oxides emissions, the oxygen sample shall be obtained simultaneously at the same point for Reference Method 6 and 7 determinations, respectively. For Reference Method 7, the oxygen sample shall be obtained using the grab sampling and analysis procedures for Reference Method 3.

2. For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the sample sampling location used for each run of *Reference Method 5* [Kentucky Method 50] under *subsection (2) of this section* [Section 1(6)]. Reference Method 1 shall be used for selection of the number of traverse points except that no more than twelve (12) sample points are required.

(7) When combinations of fossil fuels are fired, the heat input, expressed in cal/hr (BTU/hr), shall be determined during each testing period by multiplying the gross calorific value of each fuel fired by the rate of each fuel burned. Gross calorific value shall be determined in accordance with A.S.T.M. methods D2015-66(72) (solid fuels). D240-64(73) (liquid fuels), or D1826-64(70) (gaseous fuels), as applicable (A.S.T.M. designations filed by reference in 401 KAR 50:015). The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the steam generation system.

Section 8. Compliance Timetable. (1) Affected facilities located in areas designated as attainment for sulfur dioxide and/or particulate matter shall be in compliance on the effective date of this regulation.

(2) (a) In Class I counties designated as non-attainment for sulfur dioxide, the owner or operator of any affected facility in any source whose total rated capacity is sixteen thousand million BTU per hour (16,000 MM BTU/hr) or more shall be required to complete the following:

1. Submit a final control plan for achieving compliance with this regulation no later than *May* [April] 1, 1978;

2. Award contracts for complying coal by *January* [September] 1, 1979[8];

3. Initiate use of such complying coal on or before December 1, 1979;

4. Demonstrate compliance by performance tests on or before October 1, 1981.

(b) In Class IVA counties designated as non-attainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than fifteen hundred million BTU per hour (1,500 MM BTU/hr) but less than twenty-one thousand million BTU per hour (21,000 MM BTU/hr) shall be required to complete the following:

1. Submit a final control plan for achieving compliance with this regulation no later than May 1, 1979;

2. Award contracts for complying coal by August 1, 1979;

3. Initiate use of such complying coal on or before January 1, 1980;

4. Demonstrate compliance by performance tests on or before March 1, 1980;

(c) In Class IVA counties designated as non-attainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than twenty-one thousand million BTU per hour (21,000 MM BTU/hr) shall be required to complete the following:

1. Submit a control plan for flue gas desulfurization and initiate construction of a coal washing plant on or before *June* [March] 1, 1978;

2. Issue invitations for bids for construction and installation of flue gas desulfurization equipment on or before October 1, 1978;

3. Award contract for construction and installation of flue gas desulfurization equipment on or before *March* [January] 1, 1979;

4. Initiate construction of flue gas desulfurization equipment on or before *December* [October] 1, 1979;

5. Complete construction of coal washing plant on or before December 1, 1980;

6. Complete construction of flue gas desulfurization equipment on or before *June* [April] 1, 1982;

7. Demonstrate compliance by performance tests on or before *September* [July] 1, 1982.

(d) The owner or operator of any affected facility located in any area designated non-attainment for sulfur dioxide and/or particulate matter, except as provided for in paragraphs (a), (b), and (c) of this subsection, shall demonstrate compliance with this regulation as expeditiously as practicable but in no case later than December 31, 1982.

APPENDIXES A and B on following pages.

EUGENE F. MOONEY, Secretary

ADOPTED: April 4, 1979

RECEIVED BY LRC: April 25, 1979 at 9:30 a.m.

APPENDIX A TO 401 KAR 61:015
ALLOWABLE PARTICULATE EMISSION RATES

For sources having a Total Heat Input Capacity (as determined by Section 3(1) of this regulation) of:	The standard (in pounds per million BTU actual heat input) is (based upon the Priority classification with respect to particulates of the Region in which the source is located):		
(MM BTU/hr)	**Priority I**	**Priority II**	**Priority III**
10 or less	0.56	0.75	0.80
50	0.38	0.52	0.57
100	0.33	0.44	0.49
250	0.26	0.35	0.40
500	0.22	0.30	0.34
1000	0.19	0.26	0.30
2500	0.15	0.21	0.24
5000	0.13	0.18	0.21
7500	0.12	0.16	0.19
10000 or more	0.11	0.15	0.18

Interpolation of allowable emissions for intermediate heat input values not specified above may be accomplished by use of the equations shown below for the appropriate heat input range specified. In all equations X = millions of BTU per hour heat input as determined by Section 3(1) of this regulation, and Y = allowable particulate emissions in pounds per million BTU actual heat input.

Region Classification with respect to Particulate Matter	Range (MM BTU/Hr)	Allowable (Pounds/MM BTU)
Priority I	10 to 10,000	$Y = 0.9634\ X^{-0.2356}$
Priority II	10 to 10,000	$Y = 1.2825\ X^{-0.2330}$
Priority III	10 to 10,000	$Y = 1.3152\ X^{-0.2159}$

APPENDIX B
TO
401 KAR 61:015
ALLOWABLE SULFUR DIOXIDE EMISSION RATES

For sources having a total heat input (as determined by Section 3(1) of this regulation) of:	The standard (in pounds per million BTU actual heat input) is (based upon the classification with respect to sulfur dioxide of the county in which the source is located):													
	CLASS I		CLASS II		CLASS III		CLASS IV		CLASS IVA		CLASS V		CLASS VA	
(MM BTU/Hr.)	Liquid/Gaseous Fuel	Solid Fuel	Liquid/Gaseous Fuel	Solid Fuel	Liquid/Gaseous Fuel	Solid Fuel	Liquid/Gaseous Fuel	Solid Fuel	Liquid/Gaseous Fuel	Solid Fuel	Liquid/Gaseous Fuel	Solid Fuel	Liquid/Gaseous Fuel	Solid Fuel
10 or less	3.0	5.0	4.0	6.0	4.6	7.0	5.4	8.0	5.4	8.0	6.0	9.0	6.0	9.0
50	1.5	2.4	2.4	3.7	3.2	4.8	4.3	6.4	4.3	6.4	4.9	7.3	4.9	7.3
100	1.2	1.8	2.0	3.0	2.7	4.1	4.0	5.9	4.0	5.9	4.5	6.7	4.5	6.7
150	1.0	1.5	1.8	2.7	2.5	3.7	3.7	5.6	3.7	5.6	4.3	6.4	4.3	6.4
200	0.9	1.3	1.6	2.5	2.3	3.5	3.6	5.4	3.6	5.4	4.1	6.2	4.1	6.2
250-1500	0.8	1.2	1.5	2.3	2.2	3.3	3.5	5.2	3.5	5.2	4.0	6.0	4.0	6.0
greater than 1500	0.8	1.2	1.5	2.3	2.2	3.3	3.5	5.2	2.3 [2.1]	3.5 [3.1]	4.0	6.0	0.5 [0.4]	0.5 [0.6]
greater than 21,000	0.8	1.2	1.5	2.3	2.2	3.3	3.5	5.2	2.1	3.1	4.0	6.0	0.5	0.5

Interpolation of allowable emissions for rated capacity values between 10 and 250 million BTU heat input may be accomplished by use of the equations shown below for the appropriate fuel specified. In all equations Y = allowable sulfur dioxide emission in pounds per million BTU actual heat input, X = millions of BTU per hour heat input capacity rating as determined by Section 3(1) of this regulation.

COUNTY CLASS	FUEL	ALLOWABLE (POUNDS/MM BTU)
I	Liquid/Gaseous	$Y = 7.7223\ X^{-0.4106}$
	Solid	$Y = 13.8781\ X^{-0.4434}$
II	Liquid/Gaseous	$Y = 8.0681\ X^{-0.3047}$
	Solid	$Y = 11.9134\ X^{-0.2979}$
III	Liquid/Gaseous	$Y = 7.7966\ X^{-0.2291}$
	Solid	$Y = 11.9872\ X^{-0.2336}$
IV	Liquid/Gaseous	$Y = 7.3639\ X^{-0.1347}$
	Solid	$Y = 10.8875\ X^{-0.1338}$
IVA	Liquid/Gaseous	$Y = 7.3639\ X^{-0.1347}$
	Solid	$Y = 10.8875\ X^{-0.1338}$
V	Liquid/Gaseous	$Y = 8.0189\ X^{-0.1260}$
	Solid	$Y = 12.0284\ X^{-0.1260}$
VA	Liquid/Gaseous	$Y = 7.7223\ X^{-0.4106}$
	Solid	$Y = 13.8781\ X^{-0.4434}$

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:020. Existing process operations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing process operations which are not subject to another particulate emission standard within this chapter.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility, associated with a process operation, which is not subject to another emission standard with respect to particulates in this chapter, commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Process operation" means any method, form, action, operation or treatment of manufacturing or processing, and shall include any storage or handling of materials or products, before, during, or after manufacturing or processing.

(2) "Process weight" means the total weight of all materials introduced into any affected facility which may cause any emission of particulate matter, but does not include liquid and gaseous fuels charged, combustion air, or uncombined water.

(3) "Classification date" means July 2, 1975.

(4) "Process weight rate" means a rate established as follows:

(a) For continuous or long-run steady state operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof;

(b) For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period; and

(c) Where the nature of any process operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation which results in the minimum value for allowable emission shall apply.

(5) "Affected facility" as related to process operations means the last operation preceding the emission of air contaminants which results:

(a) In the separation of the air contaminant from the process materials; or

(b) In the conversion of the process materials into air contaminants, but does not include an air pollution abatement operation.

Section 3. Standard for Particulate Matter. (1) No person shall cause, suffer, allow or permit the emission into the open air of particulate matter from any affected facility, or from all air pollution control equipment installed on any affected facility which:

(a) Is equal to or greater than forty (40) percent opacity; or

(b) Is in excess of the quantity specified in Appendix A of this regulation.

(2) An affected facility may elect to substitute the following standards in lieu of the value given in Appendix A:

(a) A maximum exit particulate emission concentration of 0.02 grains per standard cubic foot;

(b) Air pollution control equipment of at least ninety-seven (97) percent actual efficiency;

(c) Addition of dilution air shall not constitute compliance; and

(d) At least ninety (90) percent of the particulate emissions from the affected facility must be vented to the control device.

Section 4. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Section 3 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):

(1) Kentucky Method 50 *for sources located in or having a significant impact upon non-attainment areas for total suspended particulates as designated in 401 KAR 51:010, and Reference Method 5 for sources located in all other areas,* for the emission rates of particulate matter and the associated moisture content.

(2) Reference Method 1 for sample and velocity traverses.

(3) Reference Method 2 for velocity and volumetric flow rate.

(4) Reference Method 3 for gas analysis.

(5) Reference Method 9 for visible emissions.

(6) For Kentucky Method 50 *and Reference Method 5,* Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 0.85 dscm (thirty (30) dscf) except that smaller sampling time or volumes, when necessitated by process variables or other factors, may be approved by the department.

APPENDIX A TO 401 KAR 61:020
ALLOWABLE RATE OF PARTICULATE EMISSION BASED ON PROCESS WEIGHT RATE

Process Weight Rate		Maximum Allowable Emission Rate
Lb/Hr.	Ton/Hr.	Lb/Hr.
100 or less	0.05 or less	0.551
200	0.10	0.877
400	0.20	1.40
600	0.30	1.83
800	0.40	2.22
1,000	0.50	2.58
1,500	0.75	3.38
2,000	1.00	4.10
2,500	1.25	4.76
3,000	1.50	5.38
3,500	1.75	5.96
4,000	2.00	6.52
5,000	2.50	7.58
6,000	3.00	8.56
7,000	3.50	9.49
8,000	4.00	10.4
9,000	4.50	11.2
10,000	5.00	12.0

Process Weight Rate		Maximum Allowable Emission Rate
Lb/Hr.	Ton/Hr.	Lb/Hr.
12,000	6.00	13.6
16,000	8.00	16.5
18,000	9.00	17.9
20,000	10.00	19.2
30,000	15.00	25.2
40,000	20.00	30.5
50,000	25.00	35.4
60,000	30.00	40.0
70,000	35.00	41.3
80,000	40.00	42.5
90,000	45.00	43.6
100,000	50.00	44.6
120,000	60.00	46.3
140,000	70.00	47.8
160,000	80.00	49.1
200,000	100.00	51.3
1,000,000	500.00	69.0
2,000,000	1,000.00	77.6
6,000,000	3,000.00	92.7

Interpolation of the data for process weight rates up to 60,000 lb/hr. shall be accomplished by use of the equation

$$E = 4.10P^{0.67}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr. shall be accomplished by the use of the equation

$$E = 55.0P^{0.11}-40$$

where E = rate of emission in lb/hr and P = process weight rate in tons/hr.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:025. Existing kraft (sulfate) pulp mills.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of emissions from existing kraft (sulfate) pulp mills.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which:
(1) Is associated with a kraft (sulfate) pulp mill:
(2) Is not subject to another standard of performance within this chapter with respect to particulates or total reduced sulfur;
(3) Commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Total reduced sulfur (TRS)" means all reduced sulfur compounds including but not limited to hydrogen sulfide, methyl mercaptan, dimethyl sulfide and dimethyl disulfide expressed in terms of hydrogen sulfide.
(2) "Classification date" means April 9, 1972.

Section 3. Standard for Particulate Matter. No person shall cause, suffer, allow or permit particulate emissions from the following affected facilities in excess of:
(1) Recovery furnace: 3.5 pounds per ton of equivalent unbleached air dried pulp produced;
(2) Lime kilns: 1.0 pounds per ton of equivalent unbleached air dried pulp produced;
(3) Dissolving smelt tanks: 0.5 pounds per ton of equivalent unbleached air dried pulp produced;
(4) An emission equal to or greater than *forty (40)* [twenty (20)] percent opacity.

Section 4. Standard for Total Reduced Sulfur (TRS). (1) No person shall cause, suffer, allow or permit total reduced sulfur emissions from the recovery furnace of any kraft (sulfate) pulp mill in excess of an exit stack gas concentration of fifteen (15) parts per million by volume expressed as an arithmetic average over any consecutive twenty-four (24) hour period.
(2) No person shall cause, allow or permit total reduced sulfur emissions from the recovery furnace of any kraft pulp mill in excess of an exit stack gas concentration of forty (40) parts per million by volume for more than sixty (60) total minutes in any twenty-four (24) hour period.
(3) No person shall cause, suffer, allow or permit the emissions of various noncondensable gas streams from digester relief, blow tank relief, evaporator hot wells, or multiple effect evaporators containing total reduced sulfur in a kraft pulp mill unless treated by thermal oxidation or an equivalent method with ninety-eight (98) percent efficiency.
(4) Control of other points of emission of total reduced sulfur, shall be considered on an individual basis as determined by the department.

Section 5. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 3 and 4 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):
(1) Reference Method 5 for the emission rates of particulate matter and the associated moisture content.
(2) Reference Method 1 for sample and velocity traverses.
(3) Reference Method 2 for velocity and volumetric flow rate.
(4) Reference Method 3 for gas analysis.
(5) Reference Method 9 for visible emissions.
(6) Reference Method 16 for the concentration of TRS. All concentrations of TRS from the lime kiln and recovery furnace that are measured as required by this subsection shall be corrected to ten (10) percent by volume oxygen and eight (8) percent by volume oxygen, respectively, when the oxygen concentrations exceed these values.
(7) Reference Method 17 (in-stack filtration) may be used as an alternative method for Reference Method 5 provided that a constant value of 0.009 g/dscm (0.004 gr/dscf) is added to the results of Reference Method 1 and the stack temperature is no greater than 205°C (400°F).
(8) For particulate tests, the sampling time for each run shall be at least sixty (60) minutes and the sampling rate

shall be at least 0.85 dscm/hr (0.53 dscf/hr) except that shorter sampling times, when necessitated by process variable or other factors, may be approved by the department. Water shall be used as the clean up solvent instead of acetone in the sample recovery procedure outlined in Reference Method 5 or 17.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:035. Existing process gas streams.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing process gas streams.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means any process gas stream which:
(1) Is not elsewhere subject to a standard of performance within this chapter with respect to hydrogen sulfide, sulfur dioxide, or carbon monoxide;
(2) Commenced before the classification date defined below;
(3) Emits hydrogen sulfide or sulfur dioxide and is located in a county classified as Class I or VA with respect to sulfur dioxide;
(4) Emits carbon monoxide generated during the operation of any grey iron cupola, blast furnace, basic oxygen steel furnace, *coal conversion plants,* catalyst regeneration of a petroleum cracking system, or other petroleum process *and is located in an area classified non-attainment with respect to carbon monoxide in 401 KAR 51:010.*

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 or 401 KAR 50:025.
(1) "Classification date" means the effective date of this regulation.
(2) "Process gas stream" means any gas stream emitted from any process, including, but not limited to, petroleum refineries, by-product coke plants, grey iron cupolas, blast furnaces, *coal conversion plants* and basic oxygen steel furnaces, *except process upset gas as defined in this section and the combustion products of purchased coke oven gas.*
(3) "Process upset gas" means any gas generated by a process unit as a result of startup, shutdown, upset, or malfunction.
(4) "Process unit" means any segment of the plant in which a specific processing operation is conducted.

Section 3. Standard for Hydrogen Sulfide. No person shall cause, suffer, allow or permit the emission or combustion of hydrogen sulfide in a process gas stream to exceed ten (10) grains per 100 dscf (165 ppm by volume) at zero percent oxygen.

Section 4. Standard for Sulfur Dioxide. No person shall cause, suffer, allow or permit the emission of sulfur dioxide in a process gas stream to exceed 239 grains per 100 dscf (2,000 ppm by volume) at zero percent oxygen.

Section 5. Standard for Carbon Monoxide. [(1)] No person shall *cause, suffer, allow, or permit the emission of carbon monoxide in a process gas stream or a waste gas stream,* [emit the carbon monoxide gases generated during the operation of any grey iron cupola, blast furnaces, basic oxygen steel furnace or coal conversion plants,] unless *the gases* [they] are burned at 1,300°F for 0.5 seconds or greater in a direct flame afterburner or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.
[(2)No person shall emit a carbon monoxide waste gas stream from any catalyst regeneration of a petroleum cracking system, petroleum fluid coker, or other petroleum process into the atmosphere, unless the waste gas stream is burned at 1,300°F for 0.5 seconds or greater in a direct flame afterburner or boiler equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.]

Section 6. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 3 and 4 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):
(1) Reference Method 11 for hydrogen sulfide. The sample shall be drawn from a point near the centroid of the gas line. The minimum sampling time shall be ten (10) minutes and the minimum sample volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals.
(2) Reference Method 6 for sulfur dioxide. Reference Method 1 shall be used for velocity traverses and Reference Method 2 for determining velocity and volumetric flow rate. The sampling site for determining SO2 concentration by Reference Method 6 shall be the same as for determining the volumetric flow rate by Reference Method 2. The sampling point in the duct for determining SO2 concentration by Reference Method 6 shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (thirty-nine (39) inches) if the cross sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Three (3) runs will constitute compliance test. Samples shall be taken at approximately one (1) hour intervals.

Section 7. Compliance Timetable. Those affected facilities subject to the standards in this regulation shall achieve compliance with those standards within eighteen

(18) months of the effective date of this regulation.

(1) Hydrogen sulfide and sulfur dioxide. The provisions of Sections 3 and 4 are applicable upon the effective date of this regulation with respect to affected facilities located in counties classified as Class I with respect to sulfur dioxide. The owner or operator of an affected facility located in a Class VA county with respect to sulfur dioxide shall be required to complete the following:

(a) Submit a final control plan for achieving compliance with Sections 3 and 4 no later than *September* [May] 1, 1979.

(b) Award the control system contract no later than *October* [June] 1, 1979.

(c) Initiate on-site construction or installation of emission control equipment no later than *September* [May] 1, 1980.

(d) On-site construction or installation of emission control equipment shall be completed no later than *December* [August] 1, 1980.

(e) Final compliance shall be achieved no later than *February* [October] 1, 198*1* [0].

(2) Carbon monoxide. The owner or operator of an affected facility shall be required to complete the following:

(a) Submit a final control plan for achieving compliance with Section 5 no later than *September* [May] 1, 1979.

(b) Award the control system contract no later than *October* [June] 1, 1979.

(c) Initiate on-site construction or installation of emission control equipment no later than *July* [March] 1, 1980.

(d) On-site construction or installation of emission control equipment shall be completed no later than *October* [June] 1, 1980.

(e) Final compliance shall be achieved no later than *December* [August] 1, 1980.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: April 4, 1979 at 1:35 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:040. Existing ethylene producing plants.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides standards of performance for existing ethylene producing plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means each waste gas stream of ethylene producing plants commenced before the classification date defined below, and which are located in a region classified as Priority I with respect to photochemical oxidants (and hydrocarbons).

Section 2. Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 50:010. "Classification date" means April 9, 1972.

Section 3. Standard for Hydrocarbons. No person shall emit into the atmosphere a waste gas stream from any ethylene producing plant unless the waste gas stream is subjected to temperatures of 1,300°F for *0.3* [0.5] seconds or greater in a direct-flame afterburner or equally effective catalytic vapor incinerator. Either device must be equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:070. Existing ferroalloy production facilities.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing ferroalloy production facilities.

Section 1. Applicability. The provisions of this regulation are applicable to the following affected facilities commenced before the classification date defined below: electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, or calcium carbide; and dust-handling equipment.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Electric submerged arc furnace" means any furnace wherein electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.

(2) "Furnace charge" means any material introduced into the electric submerged arc furnace and may consist of, but is not limited to: ores, slag, carbonaceous material, and limestone.

(3) "Product change" means any change in the composition of the furnace charge that would cause the electric submerged arc furnace to become subject to a different mass standard applicable under Section 3.

(4) "Slag" means the more or less completely fused and vitrified matter separated during the reduction of metal from its ore.

(5) "Tapping" means the removal of slag or product from the electric submerged arc furnace under normal operating conditions such as removal of metal under normal pressure and movement by gravity down the spout into the ladle.

(6) "Tapping period" means the time duration from initiation of the process of opening the tap hole until plugging of the tap hole is complete.

(7) "Furnace cycle" means the time period from completion of a furnace product tap to the completion of the next consecutive product tap.

(8) "Tapping station" means that general area where molten product or slag is removed from the electric submerged arc furnace.

(9) "Blowing tap" means any tap in which an evolution of gas forces or projects jets of flame or metal sparks beyond the ladle, runner or collection hood.

(10) "Furnace power input" means the resistive electrical power consumption of an electric submerged arc furnace as measured in kilowatts.

(11) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the air pollution control device (and located at or near such device) serving any electric submerged arc furnace subject to this regulation.

(12) "Control device" means the air pollution control equipment used to remove particulate matter generated by an electric submerged arc furnace from an effluent gas stream.

(13) "Capture system" means the equipment (including hoods, ducts, fans, dampers, etc.) used to capture or transport particulate matter generated by an affected electric submerged arc furnace to the control device.

(14) "Standard ferromanganese" means that alloy as defined by A.S.T. M. designation A-99-66(71). (A.S.T.M. designations are filed by reference in 401 KAR 50:015.)

(15) "Silicomanganese" means that alloy as defined by A.S.T.M. designation A-483-64(74).

(16) "Calcium carbide" means material containing seventy (70) to eighty-five (85) percent calcium carbide by weight.

(17) "High-carbon ferrochrome" means that alloy as defined by A.S.T.M. designation A-101-73 grades HC1 through HC6.

(18) "Charge chrome" means that alloy containing fifty-two (52) to seventy (70) percent by weight chromium, five (5) to eight (8) percent by weight carbon, and three (3) to six (6) percent by weight silicon.

(19) "Silvery iron" means any ferrosilicon, as defined by A.S.T.M. designation A-100-69(74), which contains less than thirty (30) percent silicon.

(20) "Ferrochrome silicon" means that alloy as defined by A.S.T.M. designation A-482-66(71).

(21) "Silicomanganese zirconium" means that alloy containing sixty (60) to sixty-five (65) percent by weight silicon, 1.5 to 2.5 percent by weight calcium, five (5) to seven (7) percent by weight zirconium, 0.75 to 1.25 percent by weight aluminum, five (5) to seven (7) percent by weight manganese, and two (2) to three (3) percent by weight barium.

(22) "Calcium silicon" means that alloy as defined by A.S.T.M. designation A-495-64(70).

(23) "Ferrosilicon" means that alloy as defined by A.S.T.M. designation A-100-69(74) grades A, B, C, D, and E which contains fifty (50) or more percent by weight silicon.

(24) "Silicon metal" means any silicon alloy containing more than ninety-six (96) percent silicon by weight.

(25) "Ferromanganese silicon" means that alloy containing sixty-three (63) to sixty-six (66) percent by weight manganese, twenty-eight (28) to thirty-two (32) percent by weight silicon, and a maximum of 0.08 percent by weight carbon.

(26) "Classification date" means October 21, 1974.

(27) "Concentrated discharge" means that the outlet from a control device consists of either stacks (one (1) or more) or openings on the device's top or side which has (have) a total area less than five (5) percent of the corresponding top or side and which has (have) a length of not more than twice the width.

(28) "Dispersed discharge" means that the outlet from a control device consists of opening(s) on the device's top or side which has (have) a total area exceeding five (5) percent of the corresponding top or side or which has (have) a length more than twice the width. A control device may have both dispersed and concentrated discharges.

Section 3. Standard for Particulate Matter. (1) On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which:

[(a) Exit from a control device and contain particulate matter in excess of 0.90 kg/MW-hr (1.98 lb/MW-hr) while silicon metal, ferrosilicon, calcium silicon, [or] silicomanganese zirconium, *or ferrochorme silicon* is being produced.]

[(b) Exit from a control device and contain particulate matter in excess of 0.46 kg/MW-hr (1.02 lb/MW-hr) while high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, calcium carbide, [ferrochrome silicon,] ferromanganese silicon, or silvery iron is being produced.]

(a) [(c)] Exit from a control device and exhibit an opacity equal to or greater than[:

1.] Three (3) percent where control device has dispersed discharge.

[2. Twenty (20) percent where control device has concentrated discharge.]

(b) Exit from any building opening and exhibit an opacity equal to or greater than:

1. Fifteen (15) percent for these gases which are the result of routine smelting/melting operations where no auxiliary operations will occur;

2. Twenty (20) percent for those gases which are from a furnace associated with metallurgical treatment while no auxiliary operations are occurring;

3. Twenty-five (25) percent for those gases which are the result of tapping operations;

4. Forty (40) percent for those gases which occur only during a metallurgical treatment, or

5. Forty (40) percent for those gases which occur during the pouring of metal from slag ladles into castbeds or molds.

[(d) Exit from an electric submerged arc furnace and escape the capture system and are visible without the aid of instruments. The requirements under this paragraph apply only during periods when flow rates are being established under Section 5(4).]

[(e) Escape the capture system at the tapping station and are visible without the aid of instruments for more than forty (40) percent of each tapping period. There are no limitations on visible emissions under this paragraph when a blowing tap occurs. The requirements under this paragraph apply only during periods when flow rates are being established under Section 5(4).]

(2) On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any dust-handling equipment any gases which exhibit *fifteen (15)* [ten (10)] percent opacity or greater.

[(3) The owner or operator subject to the provisions of this regulation shall submit a written report of any product change to the department. Reports of product changes must be postmarked not later than thirty (30) days after implementation of the product change.]

[Section 4. Standard for Carbon Monoxide. On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any electric submerged arc furnace *located in or impacting upon any non-attainment area for carbon monoxide* any gases which contain, on a dry basis, twenty (20) or greater percent by volume of carbon monoxide. Combustion of such gases under conditions acceptable to the department constitutes compliance with this section. Acceptable conditions include, but are not limited to, flaring of gases or use of gases as fuel for other processes.]

[Section 5. Monitoring of Operations. (1) The owner or operator of any electric submerged arc furnace subject to the provisions of this regulation shall maintain daily records of the following information:]

[(a) Product being produced.]

[(b) Description of constitutents of furnace charge, including the quantity, by weight.]

[(c) Time and duration of each tapping period and the identification of material tapped (slag or product).]

[(d) All furnace power input data obtained under *subsection (2) of this section* [Section 1(2)].]

[(e) All flow rate data obtained under *subsection (3) of this section* [Section 1(3)] or all fan motor power consumption and pressure drop data obtained under *subsection (5) of this section* [Section 1(5)].]

[(2) The owner or operator subject to the provisions of this regulation shall install, calibrate, maintain and operate a device to measure and continuously record the furnace power input. The furnace power input may be measured at the output or input side of the transformer. The device must have an accuracy of plus or minus five (5) percent over its operating range.]

[(3) The owner or operator subject to the provisions of this regulation shall install, calibrate, and maintain a monitoring device that continuously measures and records the volumetric flow rate through each separately ducted hood of the capture system, except as provided under subsection (5) of this section. The owner or operator of an electric submerged arc furnace that is equipped with a water cooled cover which is designed to contain and prevent escape of the generated gas and particulate matter shall monitor only the volumetric flow rate through the capture system for control of emissions from the tapping station. The owner or operator may install the monitoring device(s) in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device must have an accuracy of plus or minus ten (10) percent over its normal operating range and must be calibrated according to the manufacturer's instructions. The department may require the owner or operator to demonstrate the accuracy of the monitoring device relative to Reference Methods 1 and 2 of Appendix A to 40 CFR 60, (filed by reference in 401 KAR 50:015).]

[(4) When performance tests are conducted under the provisions of 401 KAR 61:005 to demonstrate compliance with the standards under Section 3(1)(d) and (e), the volumetric flow rate through each separately ducted hood of the capture system must be determined using the monitoring device required under subsection (3) of this section. The volumetric flow rates must be determined for furnace power input levels at fifty (50) and 100 percent of the nominal rated capacity of the electric submerged arc furnace. At all times the electric submerged arc furnace is operated, the owner or operator shall maintain the volumetric flow rate at or above the appropriate levels for that furnace power input level determined during the most recent performance test. If emissions due to tapping are captured and ducted separately from emissions of the electric submerged arc furnace, during each tapping period the owner or operator shall maintain the exhaust flow rates through the capture system over the tapping station at or above the levels established during the most recent performance test. Operation at lower flow rates may be considered by the department to be unacceptable operation and maintenance of the affected facility. The owner or operator may request that these flow rates be re-established by conducting new performance tests under 401 KAR 61:005.]

[(5) The owner or operator may, as an alternative to subsection (3) of this section, determine the volumetric flow rate through each fan of the capture system from the fan power consumption, pressure drop across the fan and the fan performance curve. Only data specific to the operation of the affected electric submerged arc furnace are acceptable for demonstration of compliance with the requirements of this subsection. The owner or operator shall maintain on file a permanent record of the fan performance curve (prepared for a specific temperature) and shall:]

[(a) Install, calibrate, maintain, and operate a device to continuously measure and record the power consumption of the fan motor (measured in kilowatts); and]

[(b) Install, calibrate, maintain and operate a device to continuously measure and record the pressure drop across the fan. The fan power consumption and pressure drop measurements must be synchronized to allow real time comparisons of the data. The monitoring devices must have an accuracy of plus or minus five (5) percent over their normal operating ranges.]

[(6) The volumetric flow rate through each fan of the capture system must be determined from the fan power consumption, fan pressure drop, and fan performance curve specified under subsection (5) of this section, during any performance test required under 401 KAR 61:005 to demonstrate compliance with the standards under Section 3(1)(d) and (e). The owner or operator shall determine the volumetric flow rate at a representative temperature for furnace power input levels of fifty (50) and 100 percent of the nominal rated capacity of the electric submerged arc furnace. At all times the electric submerged arc furnace is operated, the owner or operator shall maintain the fan power consumption and fan pressure drop at levels such that the volumetric flow rate is at or above the levels established during the most recent performance test for that furnace power input level. If emissions due to tapping are captured and ducted separately from the emissions of the electric submerged arc furnace, during each tapping period the owner or operator shall maintain the fan power consumption and fan pressure drop at levels such that the

volumetric flow rate is at or above the levels established during the most recent performance test. Operation at lower flow rates may be considered by the department to be unacceptable operation and maintenance of the affected facility. The owner or operator may request that these flow rates be re-established by conducting new performance tests under 401 KAR 61:005. The department may require the owner or operator to verify the fan performance curve by monitoring necessary fan operating parameters and determining the gas volume moved relative to Reference Methods 1 and 2 of Appendix A to 40 CFR 60.]

[(7) All monitoring devices required under subsections (3) and (5) of this section are to be checked for calibration annually in accordance with the procedures under the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.]

[*Section 6. Compliance Timetable. The provisions of Sections 3 and 5 are applicable within nine (9) months of the effective date of this regulation, except as provided in 401 KAR 61:005, Section 3(3).]*

Section 4. [7.] [6.] Test Methods and Procedures. (1) The reference method *9* in Appendix A of 40 CFR 60, except as provided in 401 KAR 50:045, shall be used to determine compliance with the standards prescribed in Section[s] 3. [and 4 as follows:]

[(a) Reference Method 5 for the concentration of particulate matter and the associated moisture content except that the heating systems specified in paragraphs 2.1.2 and 2.1.4 of Reference Method 5 are not to be used when the carbon monoxide content of the gas stream exceeds ten (10) percent by volume, dry basis;]

[(b) Reference Method 1 for sample and velocity traverses;]

[(c) Reference Method 2 for velocity and volumetric flow rate;]

[(d) Reference Method 3 for gas analysis, including carbon monoxide; and]

[(e) Reference Method 9 for opacity determination.]

[(2) For Reference Method 5, the sampling time for each run is to include an integral number of furnace cycles. The sampling time for each run must be at least sixty (60) minutes and the minimum sample volume must be 1.8 dscm (sixty-four (64) dscf) when sampling emissions from open electric submerged arc furnaces with wet scrubber control devices, sealed electric submerged arc furnaces, or semi-enclosed electric submerged arc furnaces. When sampling emissions from other types of installations, the sampling time for each run must be at least 200 minutes and the minimum sample volume must be 5.7 dscm (200 dscf). Shorter sampling times or smaller sampling volumes, when necessitated by process variables or other factors, may be approved by the department.]

[(3) During the performance test, the owner or operator shall record the maximum open hood area (in hoods with segmented or otherwise moveable sides) under which the process is expected to be operated and remain in compliance with all standards. Any future operation of the hooding system with open areas in excess of the maximum is not permitted.]

[(4) The control device shall be designed so that volumetric flow rate and particulate matter emissions can be determined accurately by applicable test methods and procedures.]

[(5) During any performance test required under 401 KAR 61:005, the owner or operator shall not allow gaseous diluents to be added to the effluent gas stream after the fabric in an open pressurized fabric filter collector unless the total gas volume flow from the collector is accurately determined and considered in the determination of emissions.]

[(6) When compliance with Section 4 is to be attained by combusting the gas stream in a flare, the location of the sampling site for particulate matter is to be upstream of the flare.]

[(7) For each run, particulate matter emissions, expressed in kg/hr (lb/hr), must be determined for each exhaust stream at which emissions are quantified using the equation given in Appendix A to this regulation.]

[(8) For Reference Method 5, particulate matter emissions from the affected facility, expressed in kg/MW-hr (lb/MW-hr) must be determined for each run using the equation given in Appendix B to this regulation.]

[APPENDIX A TO 401 KAR 61:070
DETERMINATION OF PARTICULATE MATTER EMISSIONS

$$En = C_s Q_s$$

Where:

En = Emissions of particulate matter in kg/hr (lb/hr).

C_s = Concentration of particulate matter in kg/dscm (lb/dscf) as determined by Reference Method 5.

Q_s = Volumetric flow rate of the effluent gas stream in dscm/hr (dscf/hr) as determined by Reference Method 2.]

[APPENDIX B TO 401 KAR 61:070
DETERMINATION OF PARTICULATE MATTER EMISSIONS FOR METHOD 5

$$E = \frac{\sum_{n=1}^{N} En}{P}$$

Where:

E = Emissions of particulate from the affected facility in kg/MW-hr (lb/MW-hr).

N = Total number of exhaust streams at which emissions are quantified.

E_n = Emission of particulate matter from each exhaust stream (n) in kg/hr (lb/hr), as determined in Section *7*[6](7).

P = Average furnace power input during the sampling period, in megawatts as determined according to Section *7*[6](2).]

EUGENE F. MOONEY, Secretary
ADOPTED: June 6, 1979
RECEIVED BY LRC: June 6, 1979 at 10:20 a.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:080. Steel plants using existing basic oxygen process furnaces.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for control of emissions from steel plants using existing basic oxygen process furnaces.

Section 1. Applicability. Provisions of this regulation are applicable to the following affected facilities commenced before the classification date defined below: basic oxygen process furnaces, associated metallurgical equipment, and dust-handling equipment.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Basic oxygen process furnaces (BOPF)" means any furnace producing steel by charging scrap steel, hot metal and flux materials into a vessel and introducing a high volume of an oxygen-rich gas.

(2) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the control device and located at or near the control device for a BOPF and/or associated equipment subject to this regulation.

(3) "Control device" means the air pollution control equipment used to remove from the effluent gas stream, particulate matter generated by a BOPF and/or associated equipment.

[(4)"Capture system" means the equipment (including ducts, hoods, fans, dampers, etc.) used to capture or transport particulate matter generated by a BOPF and associated equipment to the air pollution control device.]

[(5)"Combusted exhaust" means that the oxidizable constituents in the furnace effluent have been combusted in the exhaust system and then cooled and cleaned for discharge to the atmosphere, with or without recuperation of the heat removed.]

(4) [(6)] "Steel production cycle" means the operations required to produce each batch of steel and includes the following major functions: scrap preheating, scrap charging, hot metal charging, oxygen blowing and tapping.

(5) [(7)] "Charge" means the addition of steel scrap or other materials into a BOPF followed by molten pig iron.

[(8)"Charging period" means the time period commencing at the moment a BOPF starts to tilt to receive its charge and ending three (3) minutes after the BOPF returns to its upright position.]

(6) [(9)] "Tap" means the pouring of molten steel from a BOPF.

[(10) "Tapping period" means the time period commencing at the moment a BOPF begins to tilt to pour and ending three (3) minutes after the BOPF returns to an upright position.]

[(11) "Heat time" means the period commencing when scrap is charged to an empty BOPF and terminating when the BOPF tap is completed.]

[(12) "Operations" refer to all metallurgical processes in the shop including but not limited to scrap pre-heating, transferring hot metal, charging, blowing, de-slagging, tapping, teeming, vacuum de-gassing, continuous casting, etc.]

(7) [(13)] "Shop" means the building or bay which houses one or more BOPFs and associated equipment.

(8) [(14)] "Shop opacity" means the arithmetic average of twenty-four (24) or more opacity observations of emissions from the shop taken in accordance with Reference Method 9 of Appendix A of 40 CFR 60, filed by reference in 401 KAR 50:015, applicable time periods.

[(15) "Concentrated discharge" means that the outlet from a control device consists of either stacks (one or more) or openings on the device's top or side which has (have) a total area less than five (5) percent of the corresponding top or side and which has (have) a length of not more than twice the width.]

[(16) "Dispersed discharge" means that the outlet from a control device consists of opening(s) on the device's top or side which has (have) a total area exceeding five (5) percent of the corresponding top or side or which has (have) a length more than twice the width. An affected facility may have both dispersed and concentrated discharges.]

(9) [(17)] "Classification date" means June 11, 1973.

Section 3. Standard for Particulate Matter. (1) On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from a basic oxygen process furnace and/or associated metallurgical equipment located in the same shop any gases which:

(a) Exit from a control device and contain particulate matter in excess of *.048* [.022] gr/dscf;

(b) Exit from a control device and exhibit opacity of *forty (40)* [thirty (30)] percent or more;

(c) Exit from a shop and, due to operations of a BOPF and/or associated metallurgical equipment *and exhibit opacity of fifteen (15) percent or more* [exhibit shop opacity greater than ten (10) percent].

(2) On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from dust-handling equipment any gases which exhibit ten (10) percent opacity or greater.

Section 4. Monitoring of Operations. *The owner or operator of an affected facility shall maintain a single time-measuring instrument which shall be used in recording daily the time and duration of each steel production cycle, and the time and duration of any diversion of exhaust gases from the main stack servicing the BOPF.* [(1) The owner or operator subject to the provisions of this regulation shall maintain records daily of the following information:]

[(a)Time and duration of each charge;]

[(b)Time and duration of each tap; and]

[(c)All flow rate data obtained under subsection (2) of this section, or equivalent obtained under subsection (4) of this section.]

[(2)Except as provided under subsection (4) of this section, the owner or operator subject to the provisions of this regulation shall install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted BOPF hood. The monitoring device(s) may be installed in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring

device(s) shall have an accuracy of plus or minus ten (10) percent over its normal operating range and shall be calibrated according to the manufacturer's instructions. The department may require the owner or operator to demonstrate the accuracy of the monitoring device(s) relative to Reference Methods 1 and 2 of Appendix A of 40 CFR 60.]

[(3)When the owner or operator of a BOPF is required to demonstrate compliance with the standard under Section 3(1)(c), and at any other time the department may require, the volumetric flow rate through each separately ducted BOPF hood shall be determined during all periods in which the hood is operated for the purpose of capturing emissions from the BOPF using the monitoring device under subsection (2) of this section. The owner or operator may petition the department for re-establishment of these flow rates whenever the owner or operator can demonstrate to the department's satisfaction that the BOPF operating conditions upon which the flow rates were previously established are no longer applicable. The flow rates determined during the most recent demonstration of compliance shall be maintained (or may be exceeded) at the appropriate level for each applicable period. Operation at lower flow rates may be considered by the department to be unacceptable operation and maintenance of the affected facility.]

[(4)The owner or operator may petition the department to approve any alternative method that will provide a continuous record of operation of each emission capture system.]

[(5)Where the capture system is designed and operated such that all emissions are captured and ducted to a control device, the owner or operator shall not be subject to the requirements of this section.]

Section 5. Test Methods and Procedures. (1) Reference methods in Appendix A of 40 CFR 60, except as provided under 401 KAR 50:045, shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(a) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(b) Reference Method 1 for sample and velocity traverses.

(c) Reference Method 2 for velocity and volumetric flow rate;

(d) Reference Method 3 for gas analysis; and

(e) Reference Method 9 for opacity determination. *For the purpose of this regulation, opacity observation taken at fifteen (15) second intervals immediately before and after a diversion of exhaust gases from the stack may be considered to be consecutive for the purpose of computing an average opacity for a six (6) minute period. Observations taken during a diversion shall not be used in determining compliance with the opacity standard.*

(2) For Reference Method 5, the sampling *for each run shall continue for an integral number of cycles with total duration of at least sixty (60) minutes. The sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times when necessitated by process variables or other factors may be approved by the department. A cycle shall start at the beginning of either the scrap preheat or the oxygen blow and shall terminate immediately prior to tapping.* [time for each run shall be at least four (4) hours. When a single BOPF is sampled, the sampling time for each run shall also include an integral number of heats. Shorter sampling times, when necessitated by process variables or other factors, may be approved by the department. The minimum sample volume shall be 4.5 dscm (160 dscf).]

(3) *Sampling of flue gases during each steel production cycle shall be discontinued whenever all flue gases are diverted from the stack and shall be resumed after each diversion period.* [For the purpose of this section, the owner or operator shall conduct the demonstration of compliance with Section 3(1)(c) and furnish the department a written report of the results of the test.]

[(4)During any performance test required under 401 KAR 61:005 no gaseous diluents may be added to the gas stream effluent from any control device unless the amount of dilution is separately determined and considered in the determination of emissions.]

[(5)When more than one (1) control device serves the BOPF(s) being tested, the concentration of particulate matter shall be determined using the equation in Appendix A of this regulation.]

[(6)Any control device subject to the provisions of this regulation shall be designed and constructed to allow measurement of volumetric flow rate and emissions using applicable test methods and procedures.]

[(7)Where emissions from any BOPF(s) are combined with emissions from other affected facilities in the same shop and controlled by a common capture system and control device, the owner or operator may use any of the following procedures during a performance test:]

[(a)Base compliance on control of the combined emissions;]

[(b)Utilize a method acceptable to the department which compensates for the emissions from the other affected facilities;]

[(c)Any combination of the criteria of paragraphs (a) and (b) of this subsection.]

Section 6. 401 KAR 3:060 and 401 KAR 3:070 are hereby repealed.

[APPENDIX A TO 401 KAR 61:080
EQUATION FOR CONCENTRATION OF
PARTICULATE MATTER FOR
MORE THAN ONE CONTROL DEVICE

$$C_s = \frac{\sum_{n=1}^{N} (C_s Q_s)_n}{\sum_{n=1}^{N} (Q_s)_n}$$

Where:

C_s = concentration of particulate matter in mg/dscm (gr/dscf) as determined by Reference Method 5.

N = total number of control devices tested.

Q_s = volumetric flow rate of the effluent gas stream in dscm/hr (dscf/hr) as determined by Reference Method 2.

$(C_sQ_s)_n$ or $(Q_s)_n$ = value of the applicable parameter for each control device tested.]

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:085. Existing service stations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing service stations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility located in *urban* counties designated non-attainment for ozone according to 401 KAR 51:010 which commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means the gasoline storage tanks at a service station.
(2) "Classification date" means the effective date of this regulation.
(3) "Service station" means any public or private establishment *except farms* which dispenses gasoline into vehicle fuel tanks.
(4) "Submerged fill pipe" means any fill pipe the discharge of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge opening of which is entirely submerged when the liquid level is two (2) times the fill pipe diameter above the bottom of the tank.
(5) "Vapor balance system" means a system which conducts vapors displaced from storage tanks during filling operations to the storage compartment of the transport vehicle delivering the fuel.
(6) "Vent line restriction" means:
(a) An orifice of one-half (½) to three-quarters (¾) inch inside diameter; or
(b) A pressure-vacuum relief valve set to open at eight (8) oz. per square inch pressure and four (4) oz. per square inch vacuum; or
(c) A vent shut-off valve which is activated by connection of the vapor return hose.
(7) "Interlocking system" means devices which keep the storage tank sealed unless the vapor hose is connected or which prevent delivery of fuel until the vapor hose is connected.

Section 3. Standard for Volatile Organic Compounds. (1) The owner or operator of an affected facility shall install, maintain, and operate the following devices:
(a) Submerged fill pipe;
(b) Gauge well drop tube which extends to within six (6) inches of the bottom of the tank;
(c) Vent line restriction on the affected facility vent line; and
(d) Vapor balance system with an interlocking system and vapor tight connections on the liquid fill line and the vapor return line. The cross-sectional area of the vapor return hose must be at least fifty (50) percent of the liquid fill hose, and free of flow restrictions to achieve acceptable recovery. The size and design of the vapor return line and connections, including coaxial systems, are subject to the approval of the department.
(2) The owner or operator may elect to use an alternate control system if that system can be demonstrated to the department's satisfaction to achieve an equivalent control efficiency.
(3) The owner or operator shall not allow any transport vehicle to deliver fuel to an affected facility until the transport vehicle is properly connected to the vapor balance system or alternate control system.

Section 4. Compliance Timetable. (1) The owner or operator of an affected facility with an annual throughput greater than or equal to 250,000 gal. shall be required to complete the following:
(a) Submit a final control plan for achieving compliance with this regulation no later than September 1, 1979.
(b) Award the control device contract no later than November 1, 1979.
(c) Initiate on-site construction or installation of emission control equipment no later than April 1, 1980.
(d) On-site construction or installation of emission control equipment shall be completed no later than November 1, 1980.
(e) Final compliance shall be achieved no later than February 1, 1981.
(2) The owner or operator of an affected facility with an annual throughput of less than 250,000 gal. shall be required to complete the following:
(a) Submit a final control plan for achieving compliance with this regulation no later than September 1, 1979.
(b) Award the control device contract no later than November 1, 1980.
(c) Initiate on-site construction or installation of emission control equipment no later than April 1, 1981.
(d) On-site construction or installation of emission control equipment shall be completed no later than November 1, 1981.
(e) Final compliance shall be achieved no later than February 1, 1982.

EUGENE F. MOONEY, Secretary
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DEPARTMENT FOR NATURAL RESOURCES
ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:140. Existing by-product coke manufacturing plants.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of emissions from existing by-product coke manufacturing plants.

Section 1. Applicability. The provisions of this regulation are applicable to each affected facility commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010 and 401 KAR 61:005.

(1) "Affected facility" means a by-product coke oven battery.

(2) "Classification date" means April 9, 1972.

(3) "Coke oven battery" means a number of slot-type coking chambers arranged side by side.

(4) "Charging" means the process of conveying coal and dropping it into a coke oven through the charging holes or ports located on top of the oven.

(5) "Coking" means the destructive distillation of coal in the absence of oxygen.

(6) "Coke" means a solid form of carbon resulting from the destructive distillation of coal.

(7) "Coke oven" means a refractory lined, heated, slot-type chamber in which coke is produced.

(8) "Chuck door" means the port for the leveling bar.

(9) "Leveling bar" means a structured steel bar pushed back and forth horizontally through the chuck door and used to eliminate the peaks in the coal charged in the oven.

(10) "Collecting main" means the horizontal manifold connected to the standpipes used to conduct the volatile materials to the by-products plant.

(11) "Larry car" means the apparatus used to charge coal into an empty oven. It is also known as a charging car.

(12) "Pusher machine" means a large apparatus which travels on rails alongside the battery and used to remove doors and push coke from the ovens.

(13) "Gooseneck" means a short curved cast iron refractory lined pipe that conveys the volatiles from the standpipe to the collector main.

(14) "Standpipe" means a short vertical refractory lined pipe which conducts volatiles from an oven through the gooseneck to the collector main.

(15) "Quench" means the process whereby water is used to cool the hot coke.

(16) "Quenching car" means an apparatus used to convey hot coke to the quenching tower. It is also known as a wharf car.

(17) "Charging period" means for larry car charging systems, the period of time commencing when the first hopper gate is opened and ending when the last topside port lid is replaced. The charging period includes the period of time during which the port lid is reopened in order to sweep spilled coal into the oven.

(18) "Total coke oven doors" means push and *coke* side [coke] doors with the chuck doors considered to be part of the push side doors.

Section 3. Standards for Particulate Matter. No person subject to the provisions of this regulation shall cause, suffer or allow particulate matter to be discharged to the atmosphere from each affected facility or operation of a by-product coke oven battery except as follows:

(1) Coke oven charging: No visible emissions during the charging cycle from the control equipment, the charging ports, the larry cars or the open chuck door, with an opacity greater than twenty (20) percent for a period or periods aggregating more than two (2) minutes in any consecutive sixty (60) minutes.

(2) Battery topside leaks: The number of leaks (any visible emissions except for steam or non-smoking flame) at any time shall not exceed five (5) percent of the total number of potential leaks on the battery topside. The total number of potential leaks on the battery topside is equal to the number of operating ovens multiplied by the number of charging lids and standpipes per oven.

(3) Doors: No visible emission, except non-smoking flame, from more than ten (10) percent of the total coke oven doors on a battery.

(4) Combustion stack: No visible emission (other than water mist or vapor) shall exceed twenty (20) percent opacity from any coke oven combustion stack.

(5) Pushing: At least eight-five (85) percent of the total particulate matter generated by the pushing operation shall be captured by the control device and the captured emissions cleaned further such that the emission rate from the control device in no case exceeds 0.030 pounds of filterable particulate per ton of coke pushed, averaged over a number of pushes.

(6) Quenching: No visible emissions, except water vapor or mist shall exceed an opacity of twenty (20) percent during the quenching operations. No process water shall be used for quenching and the quench water shall be at least equal to or better than the quality of the water in the river or stream from which it is drawn. The quench tower draft shall be adequate to ensure that all visible quenching gases exit through the quench tower baffles.

Section 4. Standard for Sulfur Dioxide. Coke oven gas shall not be burned or discharged unless it contains a concentration of sulfur compounds (expressed as sulfur dioxide) that will result in emissions of no more than ninety-five (95) pounds of equivalent sulfur dioxide per million cubic feet of coke oven gas produced. Included in this are all sulfur compounds, expressed as sulfur dioxide, emitted from sulfur recovery equipment used to process the sulfur compounds removed from coke oven gas.

Section 5. Test Methods and Procedures. (1) Except as provided in 401 KAR 50:045, and subsections (2) and (3) of this section, performance tests used to demonstrate compliance with Sections 3 and 4 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):

(a) Reference Method 9 for combustion stack opacity;

(b) Reference Method 5 for the particulate mass emission rate for pushing emissions. The front half of the sampling train shall be used to determine the particulate emissions rate with possible modifications to allow high volume sampling and reduced probe-filter temperatures.

(2) Determination of sulfur in coke oven gas. Cleaned coke oven gas and any Claus plant tail gas shall to be sampled for hydrogen sulfide, carbonylsuflide, and carbon disulfide by gas chromatograph separation and flame photometric or thermal conductivity detection. Alternate methods may be approved by the department. Clean gas and tail gas flow shall be measured by in-line continuous orifice, venturi or elbow tap flow meters. Compliance testing shall consist of simultaneous measurement of sweet (clean) coke oven gas and sulfur recovery tail gas concentrations and flows. Four (4) samples per hour shall be acquired for concentration and flows during a four (4) hour test period. Compliance shall be determined from the arithmetic average of the sixteen (16) values calculated by using the formula in Appendix A of this regulation.

(3) Determination of visible emissions during the oven charging period:

(a) Principle. The visible emissions emitted from charging systems and oven ports are to be determined visually by an observer who is familiar with coke oven battery operations. Observations for sixty (60) consecutive minutes as specified by the emission standard are required unless the standard is exceeded in a fewer number of charges.

(b) Procedure. The observer is to stand such that he has

a good view of the oven being charged. Upon observing any visible emission exceeding twenty (20) percent opacity, an accumulative stopwatch is started. The watch is stopped when the visible emission drops below twenty (20) percent and is restarted when the visible emission reappears at over twenty (20) percent opacity. The observer is to continue this procedure for the entire charging period. Visible emissions may occur simultaneously from several points during a charge; e.g., from around all drop sleeves at the same time. In this case, the visible emissions are timed collectively, not independently. Also, visible emissions may start from one (1) source immediately after another source stops. This will be timed as one (1) continuous visible emission. The following visible emissions are not to be timed:

1. Visible emissions from burning coal spilled on top of the oven or oven lid during charging;

2. Visible emissions that drift from the top of a larry car hopper, but have already been timed as a visible emission from the drop sleeve below the hopper. When the slide gate closes on a larry car hopper after the coal has been added to the oven, the gate may not provide an airtight seal. On occasion a puff of smoke observed at the drop sleeve shrouds will be forced past the slide gate up into the larry car hopper. From there the smoke may drift from the top of the larry car hopper over a much longer period than it was visible at the shroud. However, if the larry car hopper does not have a slide gate or the slide gate is left open or only partially closed, visible emissions may quickly pass through the larry car hopper without being observed at the shroud. In this case, the emissions from the larry car hopper will appear as a strong surge of smoke and shall be timed.

(c) Recording charging emissions. The time recorded on the stop watch is the total time that visible emissions exceeding twenty (20) percent opacity were observed during the charge. For any consecutive sixty (60) minutes, one (1) value of the seconds of visible emissions over twenty (20) percent opacity as measured by the stopwatch shall be recorded.

(4) Determination of visible emissions from coke oven topside leaks:

(a) Principle. The visible emissions produced from leaking offtake systems, and topside lids are determined visually by an observer who is familiar with coke oven battery operations.

(b) Procedure. The observer shall inspect the coke oven battery by travelling the length of the battery topside at a steady pace, pausing only to make appropriate entries on the inspection report. Travel at a normal walking pace one (1) length of coke oven battery shall constitute a run taking approximately four (4) minutes (for a seventy (70) oven battery) to complete. In performing a run, the observer shall walk the centerline of the battery looking far enough ahead (two (2) or four (4) ovens) of his travel to easily see the oven lids, offtake systems, or collection mains. If the emissions to be inspected cannot be observed from the battery centerline, an alternative location may be used (e.g., a catwalk). During any one (1) run, the observer shall record the number of total visible emissions from oven lids, offtake systems, and collection mains. The total number of leaks from the topside shall be recorded on the inspection report sheet. The following emissions shall not be recorded:

1. Visible emissions from lids and standpipe caps that are opened during a decarbonization period or charging period.

2. Visible emissions caused by maintenance work in progress at an oven.

3. Steam emissions; this includes steam caused by the vaporization of wet luting material.

(c) Determination of percent topside leaks. The total number of leaks shall be observed during a run and then the percent of topside leaks shall be determined by using the formula given in Appendix B to this regulation.

(5) Door inspection procedure:

(a) Observation. The inspector shall make his observations of door emissions from a location as close to the battery as safety and visibility conditions permit, but generally outside of the pusher machine or hot car tracks. The inspector may move to a closer observation point to determine the source of an emission. The inspector shall start the inspection procedure with an oven at either end of the battery and on either the push side or the coke side of the battery. The inspector shall observe and record any visible emission from the door. Visible emissions from the sealing edge around the perimeter of a door, or, in the case of the pusher side, from the door and the chuck door will be considered as door emissions. Visible emissions from structural leaks, such as buckstay or lintel leaks, will not be considered as door emissions. The inspector will then move to the adjacent door and check for door emissions in a like manner. The inspector will continue this procedure down the entire length of the battery. If a temporary machine obstruction occurs blocking his view of a series of ovens, he may bypass those ovens and continue down the remainder of the battery, returning to check the bypassed ovens when he has completed that side of the battery. After the inspector has observed the doors on one side of a battery, he shall then proceed directly to the oppposite side of the battery and again start at one end of the battery repeating the same procedure as for the previous side.

(b) Determination of percent leaking doors. The total number of leaking doors shall be observed on both sides of the coke oven battery and then the percent of leaking doors shall be determined using the formula given in Appendix C to this regulation.

(6) Determination of quenching visible emissions. The inspector shall make his observations of quenching emissions from a position where he can observe the quench plume. The inspector observes all emissions from the time the wharf car enters the quench tower until the time it leaves the tower after the quench. The maximum opacity of the plume observed against a contrasting background is recorded. If water vapor or mist is present, the opacity is determined after the water vapor or mist is no longer visible in the plume.

Section 6. Compliance Timetable. The owner or operator shall demonstrate compliance with Section 3(5) on or before December 31, 1980. Compliance with all other provisions of this regulation shall have been demonstrated on or before the effective date of this regulation.

APPENDIX A TO 401 KAR 61:*140* [085]

Formula for determining sulfur compounds (expressed as SO_2) contained in coke oven gas.

$$\text{Sulfur compounds in coke oven gas} = \frac{C_{swg}V_{swg} + C_{tg}V_{tg}}{V_{fg}}$$

Where:

C_{swg} = the concentration of total reduced sulfur in the sweet gas expressed as SO_2;

C_{tg} = the concentration of total reduced sulfur in the tail gas expressed as SO_2;

V_{swg}, V_{tg}, V_{fg} = flow rates of sweet gas, tail gas and foul gas, respectively.

APPENDIX B TO 401 KAR 61:*140* [085]

Formula for determining percent topside leaks.

$$\text{Percent topside leaks} = \frac{\text{total number of leaks observed during run}}{\text{total number of potential leaks}} \times 100$$

Where:
Total number of potential leaks = Number of operating ovens x (charging lids/oven + standpipes/oven).

APPENDIX C TO 401 KAR 61:*140* [085]

Formula for determining the percent door leaks.

$$\text{Door leaks (\%)} = \frac{\text{total number of leaking doors observed}}{\text{2 x number of operating ovens in the battery}} \times 100$$

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 61:145. Existing petroleum refineries.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.083, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing petroleum refineries.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 and 401 KAR 61:005.

(1) "Affected facility" means sulfur recovery units, fluid catalytic cracking unit regenerators, fluid catalytic cracking unit incinerator waste heat boilers and fuel gas combustion devices at a petroleum refinery in any county classified VA with respect to sulfur dioxide.

(2) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or reforming of unfinished petroleum derivatives.

(3) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale and coal.

(4) "Process gas" means any gas generated by a petroleum refinery process unit, except fuel gas and process upset gas as defined in this section.

(5) "Fuel gas" means any gas which is generated by a petroleum refinery process unit and which is combusted, including any gaseous mixture of natural gas and fuel gas which is combusted.

(6) "Process upset gas" means any gas generated by a petroleum refinery process unit as a result of startup, shutdown, upset or malfunction.

(7) "Refinery process unit" means any segment of the petroleum refinery in which a specific processing operation is conducted.

(8) "Fuel gas combustion device" means any equipment, such as process heaters, boilers and flares used to combust fuel gas, but does not include fluid coking unit and fluid catalytic cracking unit incinerator-waste heat boilers, *facilities combusting coke oven gas in a by-product coke manufacturing plant,* or facilities in which gases are combusted to produce sulfur or sulfuric acid.

(9) "Classification date" means the effective date of this regulation.

Section 3. [Standard for Carbon Monoxide. No owner or operator subject to the provisions of this regulation shall discharge or cause the discharge into the atmosphere from the fluid catalytic cracking unit catalyst regenerator any gases which contain carbon monoxide in excess of 0.050 percent by volume. Section 4.] Standard for Sulfur Dioxide. (1) No owner or operator subject to the provisions of this regulation shall burn in any fuel gas combustion device any fuel gas which contains hydrogen sulfide in excess of 230 mg/dscm (0.10 gr/dscf), except as provided in subsection (2) of this section. The combustion of process upset gas in a flare, or the combustion in a flare of process gas or fuel gas which is released to the flare as a result of relief valve leakage, is exempt from this section.

(2) The owner or operator may elect to treat the gases resulting from the combustion of fuel gas in a manner which limits the release of sulfur dioxide to the atmosphere if it is shown to the satisfaction of the department that this prevents sulfur dioxide emission as effectively as compliance with the requirements of subsection (1) of this section.

(3) [(a) No owner or operator subject to the provisions of this regulation shall discharge or cause the discharge into the atmosphere from any fluid catalyst cracking unit regenerator or from any fluid cracking unit incinerator waste heat boiler sulfur dioxide in excess of 150 pounds per hour.]

[(b)In those instances in which auxilliary liquid or solid fossil fuels are burned in the fluid catalytic cracking unit incinerator-waste heat boiler, sulfur dioxide in excess of that permitted by paragraph (a) of this subsection may be emitted except that the incremental rate of sulfur dioxide emissions shall not exceed 0.80 lbs/million BTU of heat input attributable to such liquid or solid fuel.]

[(4)] No owner or operator subject to the provisions of this regulation shall discharge or cause the discharge into the atmosphere from any Claus sulfur recovery plant any gases containing in excess of:

(a) 0.025 percent by volume of sulfur dioxide at zero (0) percent oxygen on a dry basis if emissions are controlled by an oxidation control system, or a reduction control system followed by incineration; or

(b) 0.030 percent by volume of reduced sulfur compounds and 0.0010 percent by volume of hydrogen sulfide calculated as sulfur dioxide at zero (0) percent oxygen on a dry basis if emissions are controlled by a reduction control system not followed by incineration.

Section *4.* [5.] Monitoring and Reporting. (1) For any fluid catalytic cracking unit catalyst regenerator [which is subject to Section 3 and] which utilizes an incinerator-waste heat boiler to combust the exhaust gases from the

catalyst regenerator, the owner or operator shall record daily *the conversion factors used to convert monitored data (ppm) into units of the standard (lb/hr), the data used to calculate the conversion factor and the hourly emission rate in pounds per hour of sulfur dioxide* [the rate of combustion of liquid or solid fossil fuels (liters/hr or kilograms/hr) and the hours of operation during which liquid or solid fossil fuels are combusted in the incinerator-waste heat boiler].

(2) For the purpose of reports under 401 KAR 61:005 periods of excess emissions that shall be reported *for sulfur dioxide* are defined as follows:

(a) [Carbon monoxide. All hourly periods during which the average carbon monoxide concentration in the gases discharged into the atmosphere from any fluid catalytic cracking unit catalyst regenerator subject to Section 4 exceeds 0.050 percent by volume.]

[(b) Sulfur dioxide:]

[1.] Any three (3) hour period during which the average concentration of hydrogen sulfide in any fuel gas combusted in any fuel gas combustion device subject to Section *3* [4](1) exceeds 230 mg/dscm (0.10 gr/dscf), if compliance is achieved by removing hydrogen sulfide from the fuel gas before it is burned; or any three (3) hour period during which the average concentration of sulfur dioxide in the gases discharged into the atmosphere from any fuel gas combustion device subject to Section *3* [4](2) exceeds the level specified in Section *3* [4](2) if compliance is achieved by removing sulfur dioxide from the combusted fuel gases.

(b) [2.] Any twelve (12) hour period during which the average concentration of sulfur dioxide in the gases discharged into the atmosphere from any Claus sulfur recovery plant subject to Section *3(3)* [4(4)] exceeds 250 ppm at zero (0) percent oxygen on a dry basis if compliance with Section *3(3)* [4(4)] is achieved through the use of an oxidation control system or a reduction control system followed by incineration; or any twelve (12) hour period during which the average concentration of hydrogen sulfide or reduced sulfur compounds in the gases discharged into the atmosphere of any Claus sulfur plant subject to Section *3(3)* [4(4)] exceeds ten (10) ppm or 300 ppm, respectively, at zero (0) percent oxygen and on a dry basis if compliance is achieved through the use of a reduction control system not followed by incineration.

(c) Any six (6) hour period during which the average emissions (arithmetic average of six (6) contiguous one (1) hour periods) of sulfur dioxide as measured by a continuous monitoring system *for a fluid catalyst cracking unit* exceed *640.0 pounds per hour* [the standard under Section 4].

Section *5.* [6.] Test Methods and Procedures (filed by reference in 401 KAR 50:015). (1) [For the purpose of determining compliance with Section 3, the integrated sample technique of Reference Method 10 shall be used. The sample shall be extracted at a rate proportional to the gas velocity at a sampling point near the centroid of the duct. The sampling time shall not be less than sixty (60) minutes.]

[(2)] For the purpose of determining compliance with Section *3* [4](1) *and* [,] (2) [and (3)], Reference Method 11 shall be used to determine the concentration of hydrogen sulfide and Reference Method 6 shall be used to determine the concentration of sulfur dioxide.

(a) If Reference Method 11 is used, the gases sampled shall be introduced into the sampling train at approximately atmospheric pressure. Where refinery fuel gas lines are operating at pressures substantially above atmosphere, this may be accomplished with a flow control valve. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples of equal sampling time shall contitute one (1) run. Samples shall be taken at approximately one (1) hour intervals. For most fuel gases, sample times exceeding twenty (20) minutes may result in depletion of the collecting solution, although fuel gases containing low concentrations of hydrogen sulfide may necessitate sampling for longer periods of time.

(b) If Reference Method 6 is used, Reference Method 1 shall be used for velocity traverses and Reference Method 2 for determining velocity and volumetric flow rate. The sampling site for determining sulfur dioxide concentration by Reference Method 6 shall be the same as for determining volumetric flow rate by Reference Method 2. The sampling point in the duct for determining sulfur dioxide concentration by Reference Method 6 shall be at the centroid of the cross section if the cross sectional area is less than five (5) square meters (fifty-four (54) square feet) or at a point no closer to the walls than one (1) meter (thirty-nine (39) inches) if the cross sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples of equal sampling time shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals.

(2) [(3)] For the purpose of determining compliance with Section *3(3)* [4(4)], Reference Method 6 shall be used to determine the concentration of sulfur dioxide and Reference Method 15 shall be used to determine the concentration of sulfur dioxide and reduced sulfur compounds.

(a) If Reference Method 6 is used, the procedure outlined in subsection *(1)* [(2)](b) of this section shall be followed except that each run shall span a minimum of four (4) consecutive hours of continuous sampling. A number of separate samples may be taken for each run, provided the total sampling time of these samples adds up to a minimum of four (4) consecutive hours. Where more than one (1) sample is used, the average sulfur dioxide concentration for the run shall be calculated as the time weighted average of the sulfur dioxide concentration for each sample according to the formula in Appendix A of this regulation.

(b) If Reference Method 15 is used, each run shall consist of sixteen (16) samples taken over a minimum of three (3) hours. The sampling point shall be at the centroid of the cross section of the duct if the cross sectional area is less than five (5) square meters (fifty-four (54) square feet) or at a point no closer to the walls than one (1) meter (thirty-nine (39) inches) if the cross sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. To insure minimum residence time for the sample inside the sample lines, the sampling rate shall be at least three (3) liters/minute (0.1 cfm). The sulfur dioxide equivalent for each run shall be calculated as the arithmetic average of the sulfur dioxide equivalent of each sample during the run. Reference Method 4 shall be used to determine the moisture content of the gases. The sampling point for Reference Method 4 shall be adjacent to the sampling point for Reference Method 15. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. Each run shall span a minimum of four (4)

consecutive hours of continuous sampling. A number of separate samples may be taken for each run provided the total sampling time of these samples adds up to a minimum of four (4) consecutive hours. Where more than one (1) sample is used, the average moisture content for the run shall be calculated as the time weighted average of the moisture content of each sample according to the formula in Appendix B of this regulation.

Section *6.* [7.] Compliance Timetable. (1) The owner or operator of a sulfur recovery plant shall be required to complete the following:

(a) Submit a final control plan for achieving compliance with Section *3(3)* [4(4)] no later than *September* [May] 1, 1979.

(b) Award the control system contract no later than *December* [June] 1, 1979.

(c) Initiate on-site construction or installation of emission control equipment by October 1, 1980.

(d) On-site construction or installation of emission control equipment shall be completed no later than May 1, 1981.

(e) Final compliance shall be achieved no later than July 1, 1981.

(2) The owner or operator shall be required to demonstrate compliance with all other provisions of this regulation no later than the effective date of this regulation.

APPENDIX A TO 401 KAR 61:145
Time weighted average of
SO_2 concentration

$$C_R = \sum_{i=1}^{N} C_{Si} \frac{t_{Si}}{T}$$

Where:

C_R = SO_2 concentration for the run.

N = Number of samples.

C_{si} = SO_2 Concentration for sample i.

t_{si} = Continuous sampling time of sample i.

T = Total continuous sampling time of all N samples.

APPENDIX B TO 401 KAR 61:145
Equation for the time weighted
average of the moisture content.

$$B_{WO} = \sum_{i=1}^{N} B_{Si} \frac{t_{si}}{T}$$

Where:

B_{wo} = Proportion by volume of water vapor in the gas stream for the run.

N = Number of samples.

B_{si} = Proportion by volume of water vapor in the gas stream for the sample i.

t_{si} = Continuous sampling time for sample i.

T = Total continuous sampling time of all N samples.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 63:015. Flares.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of flares.

Section 1. Applicability. The provisions of this regulation are applicable to each affected facility which means flares as defined in Section 2.

Section 2. Definitions. Terms used in this regulation not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Classification date" means April 9, 1972.

(2) "Flare" means a device at the tip of a stack or other opening used for the disposal of waste gas streams by combustion.

Section 3. Standard for Particulate matter. (1) No person shall cause, suffer, or allow the emission into the open air of particulate matter from any flare which is greater then twenty (20) percent opacity *for more than three (3) minutes in any one (1) day.*

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 63:025. Asphalt paving operations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions due to asphalt paving operations.

Section 1. Applicability. This regulation is applicable to all asphalt paving operations *which are located:* [except as provided in Section 4.]

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any county which has in excess of 100 tons/year volatile organic compound emissions from asphalt paving operations and is designated non-attainment or unclassified for ozone.

Section 2. Definitions. Terms used in this regulation not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Asphalt paving operations" means the use of asphalt in any paving operation, public or private, including, but not limited to: paving of roads, paving of parking lots, maintenance operations, application of tack coats, sealants, etc.

(2) "Asphalt" means a dark-brown to black cementitious material (solid, semisolid, or liquid in consistency) in which the predominating constituents are bitumens which occur in nature as such or which are obtained as residue in refining petroleum.

(3) "Cutback asphalt" means asphalt cement which has been liquefied by blending with volatile organic compounds (diluents). Upon exposure to atmospheric conditions the diluents evaporate, leaving the asphalt cement to perform its function.

(4) "Emulsified asphalt" means an emulsion of asphalt cement, volatile organic compounds, and water which contains a small amount of an emulsifying agent; a heterogeneous system containing two (2) normally immiscible phases (asphalt and water) in which the water forms the continuous phase of the emulsion, and minute globules of asphalt form the discontinuous phase.

(5) "Maintenance operation" means patching of holes and breaks in pavement as is necessary for safety.

(6) "Penetrating prime coat" means an application of low-viscosity liquid asphalt to an absorbent surface. It is used to prepare an untreated base for an asphalt surface. The prime penetrates the base and plugs the voids, hardens the top, and helps bind it to the overlying asphalt course. It also reduces the necessity of maintaining an untreated base course prior to placing the asphalt pavement.

(7) "Unacceptable emulsion asphalt" means any emulsion asphalt which yields more than *seven (7)* [fifteen (15)] percent by volume of oil distillate when tested according to AASHTO T 59-78, Sections 7 to 9, filed by reference in 401 KAR 50:015.

(8) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (.1) mm of Hg at conditions of twenty (20) degrees Celsius and 760 mm of Hg.

Section 3. Standard for Volatile Organic Compounds. On or after April 1, 1980, no person shall use, or sell for use, manufacture, mix, or store cutback asphalts or unacceptable emulsion asphalts for asphalt paving operations.

Section 4. Exemptions. The provisions of this regulation shall not apply to the following asphalt paving operations:

(1) Application of penetrating prime coat;

(2) Dust suppression operations;

(3) Maintenance operations during the months of November, December, January, February and March.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
As Amended

401 KAR 65:005. Liquefied petroleum gas carburetion systems.

RELATES TO: KRS Chapter 224, 234
PURSUANT TO: KRS 13.082, 224.033, 224.021, 234.321
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 234.321 requires the Department for Natural Resources and Environmental Protection to establish emission standards for liquefied petroleum gas carburetion systems. This regulation complies with that requirement.

Section 1. General Provisions. (1) Applicability. This regulation is applicable only to motor vehicles utilizing liquefied petroleum gas for fuel which are required to be equipped with carburetion systems approved by the department in order to be eligible for tax exemptions as set forth in KRS 234.321.

(2) Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(a) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(b) "Light duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at 6,000 pounds gross vehicle weight or less or designed primarily for transportation for persons and having a capacity of twelve (12) persons or less.

(c) "Heavy duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds gross vehicle weight or designed primarily for transportation of persons and having a capacity of more than twelve (12) persons.

(d) "Gross vehicle weight" means the manufacturer's gross weight rating.

(3) Vehicle modification to use liquefied petroleum gas:

(a) In addition to all other standards or requirements imposed, any modification of a motor vehicle which allows that vehicle to use liquefied petroleum gas (LPG) for fuel shall not in its operation and function, or malfunction:

1. Cause any emission into the ambient air of any noxious or toxic matter that would not be emitted in the operation of such motor vehicle or motor vehicle engine operating without such a modification; or

2. Cause any unsafe condition which may endanger the motor vehicle, or its occupants or other persons or property.

(b) In cases where a modification of a vehicle has been made which enables gasoline and/or liquefied petroleum gas to be used as fuel, evidence satisfactory to the department must be presented to the department that the modification will not cause increased emissions by the vehicle when that vehicle is being fueled by gasoline.

(c) The reactivity of the exhaust gases must not be increased by any modification to a carburetion system, which modification allows the use of liquefied petroleum gas as a fuel.

(4) Application for approval:

(a) An application for approval of any carburetion system which uses liquefied petroleum gas may be made to the department by any manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

1. Identification and description of the carburetion systems, vehicles and engines with respect to which approval is required.
2. A complete description of all modifications and additions to the engine or vehicle.
3. Emission data on such vehicles and engines tested in accordance with the applicable exhaust emission test procedures.
4. A description of tests performed to ascertain compliance with the general standards, and the result of such test.
5. A statement listing the name and location of the testing facility, its qualifications to perform such tests, a certification that such testing facility was at the time the test was performed, approved to conduct such tests by the U. S. Environmental Protection Agency.
6. A statement of recommended maintenance procedures and equipment necessary to assure that the carburetion system, vehicle and engine in operation conform to the requirements of this regulation, and a description of the program for training of personnel for such maintenance.
7. An agreement that any modifications made to the system in the field will be properly identified and reported to the department. To meet this requirement, the model number shall be permanently marked on the carburetor. An adhesive label listing the information in subparagraphs 8 to 12 of this paragraph shall be furnished for installation on the air cleaner.
8. Manufacturer's name and address.
9. Accepted by the Department for Natural Resources and Environmental Protection for use on engine sizes . . . Cubic inch to . . . cubic inch.
10. Spark timing.
11. Idle speed.
12. Mixture adjustment (if used).

(c) If, after a review of the data submitted by the manufacturer, the department determines that a carburetion system to use liquefied petroleum gas conforms to this regulation, it will issue an approval with respect to such system.

Section 2. Standards for Exhaust Emissions. The applicable exhaust emission standards for liquefied petroleum gas carburetion systems are as follows:

(1) Light duty vehicles:

(a) [(1)] Hydrocarbons emissions shall not exceed 0.41 grams per vehicle mile.

(b) [(2)] Carbon monoxide emissions shall not exceed 3.4 grams per vehicle mile.

(c) Oxides of nitrogen emissions shall not exceed 0.4 grams per vehicle mile.

(2) Heavy duty vehicles:

(a) Hydrocarbons plus oxides of nitrogen (as NO2) emissions shall not exceed sixteen (16) grams per brake horsepower hour.

(b) Carbon monoxide emissions shall not exceed forty (40) grams per brake horsepower hour.

Section 3. Test Procedures for Vehicle and Engine Exhaust Emissions. (1) The department will approve carburetion systems which a manufacturer has successfully tested at a facility which is determined to be qualified for performing such testing by the U. S. Environmental Protection Agency. All testing procedures shall be conducted in accordance with the procedures established by the department.

(2) At least one (1) vehicle in each engine displacement class for which the exemption is sought must be tested for emission data. Each manufacturer, however, must accumulate data on a minimum of two (2) vehicles for each carburetor model to qualify for approval.

Displacement Classes

Class	Engine Displacement
A	Under 140 Cubic Inches
B	140-200 Cubic Inches
C	200-250 Cubic Inches
D	250-300 Cubic Inches
E	300-375 Cubic Inches
F	Over 375 Cubic Inches

(3) Carburetion systems shall be installed in accordance with manufacturer's specifications and instructions in order to qualify for the exemption.

Section 4. 401 KAR 3:080 is hereby repealed.

EUGENE F. MOONEY, Secretary
ADOPTED: March 26, 1979
RECEIVED BY LRC: March 27, 1979 at 1:45 p.m.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration
As Amended

703 KAR 2:020. Calendar.

RELATES TO: KRS *2.110,* 2.190, 18.350, 158.060, 158.070
PURSUANT TO: KRS 13.082
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: This regulation is necessary for efficient management, control and operation of schools and to assure uniformity in the days all *approved* schools are in session.

Section 1. On or before *June 15* [August 1] of each year, local boards of education shall, upon recommendation of the superintendent, adopt a school calendar fixing the opening and closing dates of each school month, designating the dates of school days within each school month and describing the school days on which schools will be dismissed in accordance with State Board *for Elementary and Secondary* [of] Education regulations. This section shall apply to all local boards of education operating experimental or year-round school programs.

Section 2. Each local board of education shall, on or before *July 1* [August 15] of each year, file a copy of the adopted school calendar with the Department of Education for approval as to the compliance with these regulations. No district shall be paid any installment of its Foundation Program allotment until the school calendar for that district has been so approved.

Section 3. A local board of education may amend its school calendar upon recommendation of the superintendent within the limitations of pertinent State Board *for Elementary and Secondary* [of] Education regulations.

Section 4. All amendments to school calendars shall be submitted on the appropriate form to the Department of Education for approval as to compliance with these regulations prior to the date of change in the existing school calendar except:

(1) In cases of emergency beyond the control of a local board of education, post approval of an amendment may be requested; and

(2) *If schools are closed prior to the regular February meeting of the local board of Education [March 1] due to a national, state, or local disaster or mourning as provided by KRS 158.070(3)(a) and (b), an amendment shall be submitted no later than five (5) days after this meeting. [on or before March 1.] If the disaster occurs on the date of the regular February meeting, [March 1,] or thereafter, the amendment shall be submitted no later than five (5) days after the next meeting of the local board of education. [on or before the first day of the succeeding month.]* [All amendments for a change in the school calendar due to national, state, or local disaster or mourning as authorized by KRS 158.070(3)(a) and (b) shall be submitted to the State Department of Education no later than ten (10) days after the first regular meeting of the local board of education following the occurrence of the event necessitating the requested change in the school calendar.]

Section 5. The school calendar shall provide for the same number of days of classroom instruction in all schools operated by a local board of education.

Section 6. The four (4) days on which schools may be dismissed for holidays as provided for in KRS 158.070 shall be selected from those listed in KRS *2.110,* 18.350 and 158.070 subject to the provisions of such sections, except in presidential election years the day of the regular election must be used as one of the allowable holidays.

Section 7. Local boards of education may use one (1) day of the minimum school term for the opening of schools and one (1) day for the closing of schools without the presence of pupils.

Section 8. Local boards of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. Proper approval for these four (4) days shall be secured from the State Department of Education.

[Section 9. If the schools are closed under the provisions of KRS 158.070(3)(b) the days lost shall be made up unless the school calendar includes more than 175 days of actual classroom instruction or the State Board of Education determines that the loss of days taught below the minimum of 175 days were due to major catastrophes which cause destruction of the school plant.]

Section *9.* [10. The number of days schools are dismissed shall not exceed fifteen (15) days in the 185 day school term.] If local boards of education do not dismiss schools *for four (4) holidays, one (1) day for opening schools, and one (1) day for closing schools* as provided by KRS 158.070(3), the number of days of actual classroom instruction shall be increased accordingly.

Section *10.* [11.] The two (2) consecutive days schools are required to be closed for the purpose of permitting professional school employees to attend state-wide professional meetings and the one (1) day for regional or district professional meetings shall not be counted as a part of the minimum school term. The Superintendent of Public Instruction will approve dates which have been selected by the local boards of education for regional or district meetings.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: April 26, 1979
RECEIVED BY LRC: May 22, 1979 at 11:30 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Occupational Safety and Health
As Amended

803 KAR 2:092. Pay during inspection activities.

RELATES TO: KRS 338.111, 338.121(3)
PURSUANT TO: KRS 13.082
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: The Commissioner of Labor has the authority and responsibility for promulgating regulations necessary to accomplish the purpose of this chapter. Employee participation in walkaround inspections provides a necessary source of information to the representatives of the Commissioner of Labor concerning the presence of work place hazards. Fear of economic loss through denial of pay during the walkaround inspection is a denial of free exercise of the right of an employee representative to participate in the walkaround inspection. The purpose of this regulation is to encourage and to promote employee representative participation in walkaround inspections by providing for pay during the conduct of walkaround inspections and related activity.

Section 1. Employees, *when on regular duty time,* shall be paid at their regular rate of pay during the conduct of walkaround inspections and other inspection related activities such as responding to questions of compliance officers, or participating in opening and closing conferences. An employer's failure to pay employees for time engaged in these activities is discriminatory under KRS 338.121(3).

JAMES R. YOCOM, Commissioner
ADOPTED: April 9, 1979

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Occupational Safety and Health
As Amended

803 KAR 2:122. Application for extension of abatement.

RELATES TO: KRS 338.141(2)
PURSUANT TO: KRS 13.082
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: The Commissioner of the Department of Labor is empowered to extend abate-

ment periods established pursuant to KRS 338.141(2) and 803 KAR 2:120. The function of this regulation is to detail the form of the application for extension of abatement, steps necessary to make application, content of the application, form and timing for the ruling of the Commissioner of the Department of Labor on the application, and, appeal available to the parties adversely affected by the decision on the application.

Section 1. An employer may make application for extension of abatement date with the Commissioner of the Department of Labor or his designee, the Director of Compliance, when the employer has made a good faith effort to comply with the abatement requirements of a citation, but abatement has not been completed due to factors reasonably beyond his control. Where application for extension of abatement is made, said application shall be filed not later than the close of the day on which abatement was originally required. A later filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

Section 2. An application for extension of abatement may be in writing or may be made orally where time does not permit a writing. *Where application for extension of abatement is made orally a written application shall follow said oral request within three (3) working days.* The application shall include the following information:

(1) All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional and technical personnel or materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

Section 3. The Commissioner of the Department of Labor or his designated representative, the Director of Compliance, shall rule on the application for extension of abatement within three (3) days of receipt of same.

(1) Where extension is granted, amended citation shall issue and the employer shall post the amended citation at or near the same location as the original citation as under 803 KAR 2:125. Adversely affected employees may appeal pursuant to KRS 338.141(1) and rules of the KOSHRC.

(2) Where extension is denied, adversely affected employers shall have right of appeal as under KRS 338.141(1) and rules of the KOSHRC.

Section 4. Where jurisdiction of the Review Commission has expired, the Commissioner of the Department of Labor shall again assume authority to modify abatement under KRS 338.131(2).

JAMES R. YOCOM, Commissioner
ADOPTED: April 9, 1979

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
As Amended

803 KAR 4:010. Elevators, dumbwaiters, escalators and moving walks standards.

RELATES TO: KRS 336.510 to 336.680
PURSUANT TO: KRS 13.082, 336.620
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: KRS 336.620 authorizes the commissioner to make rules and regulations for the safety and inspection of elevators. The function of this regulation is to adopt safety standards which will insure that all elevators are reasonably safe for use by the citizens of this Commonwealth.

Section 1. *Adoption of Code.* The commissioner hereby adopts and incorporates by reference the American Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, published by and available from the American Society of Mechanical Engineers, *1978* [1971] edition, United Engineering Center, 345 East 47th Street, New York, New York 0017, which specifically details the equipment, materials, weights, gauges, lengths, widths, and quality of construction that will make elevators, escalators, and any other lifting or lowering device named in the Elevator Safety Act of 1974, reasonably safe, with the following exceptions:

(1) 500.1 to 502.15;
[(1)500.1 to 502.15;]
(2) [(1)] [(2)] 700.4b, 700.5, 700.7b, 700.10b, 707.4; and
(3) [(2)] [(3)] 900.1 to 903.1.

Section 2. Freight Elevators and Electric Powered Dumbwaiters. Application and specifications for freight elevators and electric powered dumbwaiters shall continue to be submitted to the department for approval. Freight elevators and electric powered dumbwaiters will be inspected upon completion of their installation. Nothing in this regulation shall require the annual inspection of freight elevators or electric powered dumbwaiters now in existence.

JAMES R. YOCOM, Commissioner
ADOPTED: March 13, 1979

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
As Amended

902 KAR 105:030. Teaching institution's curricula.

RELATES TO: KRS 211.870, 211.890, 211.993
PURSUANT TO: KRS 13.082, 194.050, 211.090
EFFECTIVE: June 6, 1979
NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.870, 211.890 and 211.993 to regulate operators of sources of radiation other than licensed practitioners of the healing arts, including but not limited to: the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate sources of radiation; issuance, renewal,

and revocation of certificates; the fixing of a reasonable schedule of fees and charges to be paid by applicants for examinations, certificates, and renewal certificates; and to set such other standards as may be appropriate for the protection of health and safety. The purpose of this regulation is to establish uniform curricula standards for institutions teaching persons to operate sources of radiation.

Section 1. Applicability. This regulation applies to curricula standards for institutions offering *an institutional* [a] course of study for operators of sources of radiation.

Section 2. Curricula Standards. All sponsoring institutions offering *an institutional* [a] course of study for operators of sources of radiation shall:

(1) Apply for approval on a form provided by the department;

(2) Supply all data requested for a complete evaluation of its administration, organization, faculty, physical facilities, student policies, and curriculum instructions.

(3) Have as the director or advisor of a course of study:

(a) For obtaining general certification, a qualified radiologist certified by the American Board of Radiology or an individual possessing suitable equivalent qualifications.

(b) For obtaining limited certification, an individual as stipulated in paragraph (a), or a licensed practitioner of the healing arts in the appropriate field of practice, knowledgeable in radiation protection.

[(3) Have as the director of the course of study a licensed practitioner of the healing arts[;] *or an individual who is qualified by training and experience to administer a course of study for operators of sources of radiation;*]

(4) Provide an adequate faculty *which shall be qualified through academic preparation or experience to teach the subjects assigned*;

(5) Provide at least one (1) certified operator who shall be designated as the technical director of the training program. In addition to certification the individual must have a minimum of three (3) years of education or experience or a combination of education and experience in the appropriate field of practice;

(6) Provide a ratio of not more than three (3) students to one (1) full-time certified operator engaged in clinical instruction;

(7) Provide a course of study in radiography at facilities approved by the department.

(8) Provide appropriate facilities, sufficient volume, and a variety of diagnostic radiographic examinations to properly conduct the course of study;

(9) Prohibit students from applying radiation to human beings for diagnostic purposes until they have obtained practical experience using phantoms and have had their performance evaluated as satisfactory by the technical director;

(10) Provide direct personal supervision by a licensed practitioner of the healing arts or a certified operator to students upon their initial application of radiation to human beings;

(11) Prohibit students from being assigned night or week-end call or being placed in any other situation where they would be required to apply radiation to a human being while not under the direct supervision of a licensed practitioner of the healing arts or a certified operator except where they have completed at least fifty (50) percent of their course of study and had their performance evaluated and recorded as satisfactory by the technical director permitting radiographic procedures under general supervision.

(12) Prohibit all exposures to human beings from a source of radiation except for diagnostic purposes unless otherwise specified in the curriculum approved by the department;

(13) Keep records of each student's attendance, grades, *clinical experience* [examinations], and subjects completed;

(14) Designate a radiation safety officer; and

(15) Permit site inspections by representatives of the department. *The department may accept, in lieu of a departmental site inspection, a site visit report from a recognized accrediting body.*

Section 3. Advanced Placement. Upon departmental approval, advanced placement may be made by examination in accordance with institutional policy based upon the same standards of achievement required for students completing the required clock hours of classroom and clinical experience. Examinations used in advance placement shall be reliable, valid and standardized and based on performance data of students who have completed the required subjects.

ROBERT SLATON, Commissioner
PETER D. CONN, Secretary

ADOPTED: May 9, 1979
RECEIVED BY LRC: May 11, 1979 at 3:30 p.m.

Proposed Amendments

SECRETARY OF THE CABINET
Department of Revenue
(Proposed Amendment)

103 KAR 41:040. Subjobbers, vending machine operators and unclassified acquirers.

RELATES TO: KRS 138.130, 138.195
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation interprets the statute and outlines procedures for securing cigarette subjobber license, cigarette vending machine operator license and cigarette unclassified acquirer license.

Section 1. Application for Cigarette Subjobber License: (1) Any person desiring to secure a license as a subjobber of cigarettes on which tax evidence has been previously affixed must file an application with the Department of Revenue, Frankfort, Kentucky, on forms prescribed by the department. A separate application must be filed *for* [from] each place of business from which taxpaid cigarettes are made available to retailers. The application must state the name and address of the business, the nature of the business, the owners or principal officers, [and] the names of other states in which the applicant intends to distribute cigarettes, *and include a list of at least five (5) Kentucky retail locations with whom the applicant has made firm arrangements to regularly supply Kentucky taxpaid cigarettes for resale in the regular course of business.* If the applicant is a nonresident of the state, the name of a process agent must be designated.

(2) Upon issuance by the Department of Revenue, the license must be displayed in the place of business for which the license was issued.

Section 2. Application for Cigarette Vending Machine Operator License: (1) Any person responsible for stocking a vending machine with cigarettes and accounting for receipts from the sale thereof must file an application for a license as a vending machine operator. The application must be filed with the Department of Revenue, Frankfort, Kentucky, and must state the name and principal address of the business, the nature of the business, the owners or principal officers, the approximate number of machines to be operated, the area of Kentucky in which the machines will be operated, and the names of other states in which cigarettes are to be distributed by the applicant.

(2) Upon issuance by the Department of Revenue, the license must be retained at the principal address of the vending machine operator. If a change of address occurs, written notification must be given the department. The license number along with the name and address of the operator must be affixed to each machine in operation in such a manner as to be visible at the time of the purchase of cigarettes.

Section 3. Application for Cigarette Unclassified Acquirer License: (1) Any person desiring to secure a license as an unclassified acquirer of cigarettes must file an application with the Department of Revenue, Frankfort, Kentucky, on forms prescribed by the department. The application must state the name and address of the person receiving the untaxpaid cigarettes, the nature of the business conducted by the applicant, the anticipated source of supply for cigarettes, and the intended distribution of any cigarettes to be received.

(2) Upon issuance by the Department of Revenue, the license must be retained at the address given on the application. If the unclassified acquirer has a change of address, written notification must be given the department.

MAURICE P. CARPENTER, Commissioner
ADOPTED: June 4, 1979
APPROVED: THOMAS C. GREENWELL
Deputy Secretary
RECEIVED BY LRC: June 4, 1979 at 1:20 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40620.

SECRETARY OF THE CABINET
Department of Revenue
(Proposed Amendment)

103 KAR 41:050. Transporters.

RELATES TO: KRS 138.130, 138.195
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation, under the authority of KRS 138.195, outlines licensing and reporting requirements for transporters of cigarettes.

Section 1. Any person desiring to secure a license as a transporter of *untaxpaid* cigarettes must file an application with the Department of Revenue, Frankfort, Kentucky, on forms prescribed by the department. The application must state the name and address of the business, its owners or principal officers, and the area of the state in which the applicant intends to transport *untaxpaid* cigarettes.

Section 2. Upon issuance by the Department of Revenue, the license must be retained at the principal office of the transporter. The license number must be in the possession of the transporter when *untaxpaid* cigarettes are being transported, along with an invoice or bill of lading showing the name and address of the consignor and consignee, the date acquired by the transporter, *and* the quantity of cigarettes being transported[, and whether the cigarettes bear tax evidence].

Section 3. Each transporter must maintain adequate records of all receipts and deliveries of *untaxpaid* cigarettes. These records must be made available upon request to agents of the department for audit purposes. A report on

any shipment, transported or delivered, must be submitted by the transporter upon written request by an agent of the department.

MAURICE P. CARPENTER, Commissioner
ADOPTED: June 4, 1979
APPROVED: THOMAS C. GREENWELL
Deputy Secretary
RECEIVED BY LRC: June 4, 1979 at 1:20 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40620.

SECRETARY OF THE CABINET
Department of Military Affairs
Division of Disaster and Emergency Services
(Proposed Amendment)

106 KAR 1:030. Rescue organizations.

RELATES TO: Executive Order 78-356
PURSUANT TO: Executive Order 78-356, KRS 13.082
NECESSITY AND FUNCTION: Executive Order 78-356 directed that all responsibilities, functions, and funds relating to rescue organizations, both voluntary and professional, be assumed by the Division of Disaster and Emergency Services (DES). It further authorized the Division to establish eligibility criteria for funding. This regulation provides policy, procedure, and qualification requirements for implementation of the Executive Order.

Section 1. Purpose. The rescue aid program is designed to:
(1) Reduce and prevent the loss of life by creating a better equipped, trained, and coordinated rescue force throughout the Commonwealth;
(2) Upgrade the capabilities of local rescue squads by providing financial assistance to be used to purchase equipment and obtain training;
(3) Encourage the development of rescue squads where none exist.

Section 2. Responsibilities. (1) The Adjutant General, [as Director of the Division of Disaster and Emergency Services,] shall have overall responsibility for the program policy, administration and implementation.
(2) The executive director, DES, shall insure proper utilization of funds and shall serve as the principal advisor to the Adjutant General.
(3) The review board shall be responsible for reviewing applications for funds and, with the concurrence of the Adjutant General, shall allocate available funds. The board shall be composed of the DES executive director, assistant director, director of operations, director of support services, administrative officer, and search and rescue coordinator.
(4) DES area coordinators shall provide liaison between local rescue squads and the review board, ensuring compliance with this regulation, continuity with other emergency preparedness programs, and accuracy of submitted documentation.
(5) Local DES civil defense (DES/CD) coordinators shall insure coordination of rescue programs at the local level and process all applications for assistance for squads within his jurisdiction.
(6) The chief officer of the rescue squad shall initiate project applications for funds and shall insure that all funds are expended for items or services as approved.

Section 3. Definition. "Rescue squad" means an organization composed of twelve (12) or more individuals who provide emergency rescue service to the public in the form of search, rescue from peril, and victim recovery, either on land or water. The group will operate by assisting, extricating, or otherwise removing persons trapped, lost, injured, incapacitated or deceased from buildings, vehicles, aircraft, bodies of water, and other emergency situations.

Section 4. Eligibility. To be eligible to receive rescue funds allocated under the provisions of this regulation, a squad must meet all of the following requirements:
(1) It must be organized to conduct search, rescue and victim recovery;
(2) It must operate a vehicle dedicated to rescue activities and equipped to meet the minimum equipment requirements for a light duty squad;
(3) It must be formally affiliated with the county DES or civil defense organization through one of the following means:
(a) Execution of a county resolution/ordinance, or written agreement signed by the county judge/executive, DES/CD coordinator, and chief rescue officer, outlining a specific working agreement. This document will include, as a minimum, chain of command and responsibilities of each concerned party;
(b) Incorporation of the responsibilities of the rescue squad into the county emergency operations plan. This plan must have the concurrence of the county judge/executive, county DES/CD coordinator, and chief rescue officer.
(4) When a rescue squad is not independent, but is incorporated within other emergency service departments, such as a fire department, the squad members must be available for and capable of performing rescue services not incidental to their primary mission. For example, a rescue squad within a fire department must perform rescue missions other than those associated with fires.
(5) No individual may be counted as a squad member more than once for the purposes of grant application, though he may normally be available to serve with more than one (1) squad;
(6) Squads which specialize in certain facets of rescue, such as water and/or under water recovery, shall maintain at least a light duty rescue capability to be eligible for funding;
(7) Squads may not assess fees for services rendered;
(8) In order to encourage the development of new rescue squads where a need is verified, funding may be provided to groups under the following conditions:
(a) A minimum of twelve (12) persons must be identified as active members;
(b) Formal guidelines or by-laws must be written to define administrative and operational procedures for the squad;
(c) Section 4(3) must be fully complied with.

Section 5. Application Procedures. (1) A rescue squad aid project application (DES Form *107* [11], filed herein by reference) will be initiated by the chief rescue officer and forwarded to the local DES/CD coordinator for review

and consolidation. In the absence of a local coordinator, the county judge/executive will fill this role.

(2) The local coordinator will forward all applications to the DES area coordinator, who will review them and forward documentation to the review board.

(3) The review board will convene three (3) times during the year to assess applications and allocate funds. Reviews will begin on or about *August 15, December 1, and April 1* [October 15, February 15, and June 1] of each year. All applications on file will be reviewed during each session.

(4) The review board will notify the local organization of grant awards and the DES administrative officer will insure payment.

(5) The local DES/CD coordinator will retain copies of all applications on file.

Section 6. Expenditures. The rescue squad must expend all grant money within *thirty (30)* [sixty (60)] days of receipt of grant funds and must provide a copy of the invoice, as well as proof of payment to the DES area coordinator within *seventy-five (75)* [ninety (90)] days of receipt of the award. Funds not expended must be returned to DES.

Section 7. Equipment. (1) All equipment purchased with rescue aid funds will be selected from the required equipment list attached unless otherwise approved by the review board. Optional items will not be approved until all items on the required list have been purchased.

(2) The rescue squad shall be accountable to the Commonwealth of Kentucky for all equipment purchased in whole or in part with these funds, providing that the unit purchase price is $300 or more. After five (5) years from the date of the grant award, the equipment shall become the property of the squad. All such accountable property will be marked in accordance with guidance provided by the DES administrative officer.

(3) Permission to dispose of unserviceable, obsolete, or damaged items purchased with these funds may be granted by the *Adjutant General* [DES director] or executive director. Requests for such action must be submitted through the local DES/CD coordinator and the DES area coordinator.

(4) Equipment personally owned by members of a rescue squad may not be used to fulfill requirements of the minimum equipment list.

(5) When a squad is disbanded, loses its local charter to operate, or otherwise becomes incapable of performing duties outlined in Section 3, all equipment purchased with these funds will revert to DES for re-allocation. In cases in which local funds paid for a portion of the equipment or the equipment has depreciated, the squad may return the equipment to DES or repay an amount determined appropriate by the review board.

Section 8. Waivers. Requests for waiver of any section or subsection of this regulation may be submitted with appropriate justification to the DES executive director. Waivers approved will apply only to the specific request.

Section 9. Inspection/Audit. (1) Equipment purchased with these funds shall be subject to inspection, with twenty-four (24) notice, by the local DES/CD coordinator, DES area coordinator, or any member of the review board.

(2) An inspection will be made when items are reported damaged, in need of replacement, or when there is evidence of misuse. Inspections may also be required upon request of any member of the review board.

(3) An annual inspection of equipment purchased under this regulation will be conducted by the DES area coordinator. Such review will be made for purposes of accountability, maintenance and proper utilization.

(4) All funds are subject to state audit and local squads shall cooperate fully to provide necessary documentation.

Section 10. Reports. (1) A report to the DES area coordinator must be made within twenty-four (24) hours when:

(a) Accountable equipment purchased with these funds is lost, stolen, or damaged;

(b) The squad is disbanded or otherwise rendered incapable of performing duties as outlined in Section 3.

(2) Local DES/CD coordinators must maintain a cumulative list of equipment owned by each squad, denoting those items purchased with these funds. An updated list must be made available to the DES area coordinator at the time of each application.

(3) Rescue squads must submit DES Form 29 (search and rescue activity report, filed herein by reference) monthly to the local DES/CD coordinator, who must forward the report to the DES area coordinator. Negative reports shall not be required.

BILLY G. WELLMAN, The Adjutant General
ADOPTED: June 1, 1979
APPROVED: JAMES E. GRAY, Secretary
RECEIVED BY LRC: June 11, 1979 at 1:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Billy G. Wellman, The Adjutant General, Department of Military Affairs, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Licensure for Nursing Home Administrators
(Proposed Amendment)

201 KAR 6:010. Licensure.

RELATES TO: KRS Chapter 216A
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS Chapter 216A authorizes the Kentucky Board of Licensure for Nursing Home Administrators to regulate the practice of nursing home administration in Kentucky, including the adoption of standards for licensure. The purpose of this regulation is to establish uniform requirements for the licensing of nursing home administrators.

Section 1. Requirements for Issuance of License. An applicant for a license as a nursing home administrator shall in addition to meeting the requirements provided by KRS 216A.080:

(1) Establish a bona fide residency or express an intent to reside in Kentucky, unless employed by a health care facility located in Kentucky.

(2) (a) Have satisfactorily completed a course of study for, and have been awarded a baccalaureate degree; and have six (6) months of continuous management experience in a health care facility within three (3) years from the date of application. Said management experience shall include

at least partial responsibility for personnel management, budget preparation and fiscal management, and public relations; or

(b) Have satisfactorily completed at least sixty-four (64) college semester hours and one (1) year of continuous management experience in a health care facility within three (3) years from the date of application. Said management experience shall include at least partial responsibility for personnel management, budget preparation and fiscal management and public relations.

(3) Pay a license fee of $100 at the time of application, seventy-five dollars ($75) of which shall be refunded in the event the applicant is not subsequently licensed.

Section 2. Examination Subjects. Every applicant for a license as a nursing home administrator shall successfully pass a written examination which shall include, but need not be limited to, the following subjects:

(1) Applicable standards of environmental health and safety;
(2) Local health and safety regulations;
(3) General administration;
(4) Psychology of patient care;
(5) Principles of patient care;
(6) Personal and social care;
(7) Therapeutic and supportive care and services in long-term care;
(8) Departmental organization and management; and
(9) Community interrelationships.

Section 3. Temporary Permits. *(1) The board may issue a temporary permit to an individual to practice the art of nursing home administration when the applicant:*

(a) Has made written application to the board on the forms provided;

(b) Is at least twenty-one (21) years of age;

(c) Intends to become employed by a health care facility located in Kentucky;

(d) Has met the minimum education requirements of at least sixty-four (64) college semester hours and has had at least six (6) months of management experience in a health care facility within three (3) years preceding the date of application, such experience, including at least partial responsibility for personnel management, budget preparation, and fiscal management and public relations; or

(e) Has been awarded a baccalaureate degree from an accredited college or university;

(f) Has furnished the board a letter of recommendation from the facility owner or supervisor where he intends to work, with sufficient information to support the fact that an emergency situation exists; and

(g) Has paid the temporary permit fee of fifty dollars ($50).

(2) Temporary permits shall be issued in the name of the applicant to be employed at a specific facility for a period of six (6) months.

(3) A refund of twenty-five dollars ($25) may be made to the holder of a temporary permit, in the event such permittee receives a nursing home administrators license issued during the first ninety (90) days of the permit period.

(4) A temporary permit may not be extended or renewed beyond the initial period of six (6) months and may not be transferred from one (1) facility to another nor from one (1) individual to another. [The fee for a temporary permit shall be fifty dollars ($50). The temporary permit shall not be transferable to any other health facility.]

Section 4. Renewal, *Expiration and Reinstatement* of Licenses. *(1) All licenses shall be renewed every two (2) years from date of issue or from date of last renewal. It is the responsibility of the licensee, prior to such date of renewal to have:*

(a) Made written application for renewal on the prescribed forms;

(b) Paid a biennial renewal fee of $100;

(c) Submitted evidence, satisfactory to the board, of attendance or completion of a continuing education program of study approved by the board which contained either a minimum of six (6) college semester hours or fifty (50) clock hours, all of which must have been achieved during the immediate preceding biennial period. Any clock hours obtained during the last thirty (30) days of any renewal period, in excess of the number of hours required for renewal purposes, may be credited toward the new renewal period during the renewal process.

(2) The board may make exceptions, grant waivers or provide extensions to the requirements in subsection (1) above when extenuating circumstances are sufficiently evidenced by the licensee to warrant such action.

(3) Expired licenses may be reinstated within a period of sixty (60) days from date of expiration, provided all conditions are met. Failure on the part of the licensee to pay the biennial licensure fee and show evidence of completing the required continuing education credits during the sixty (60) day grace period shall automatically cause such license to terminate. Thereafter, a candidate for relicensure shall make application to the board and meet current licensure requirements. [Upon expiration of the license the licensee shall make an application for biennial renewal of a license. Such licensee shall pay a biennial renewal fee of $100 and at the same time, submit evidence satsifactory to the board that during the biennial period immediately preceding such application that he has attended a continuing education program of approved study which contained a minimum of six (6) college semester hours or fifty (50) clock hours. Upon receipt of such application for renewal of a license, the renewal fee, and the evidence required with respect to continuing education, the board shall issue a renewed license to such nursing home administrator. Failure to pay the license renewal fee sixty (60) days from the date on which it is due shall cause the license to automatically expire and terminate.]

Section 5. Endorsement. The board may license by endorsement, without examination, a nursing home administrator currently licensed by examination by the proper authorities of any other state upon payment of a fee of $100, and provided the applicant demonstrates to the board:

(1) That he is familiar with state and local health and safety regulations relating to nursing homes;
(2) That his license has not been revoked or suspended in any other state; and
(3) That he meets current educational and experience requirements contained in Section 1.

Section 6. Refusal, Suspension, and Revocation of Licenses. The board may suspend, revoke, or refuse to issue or renew a license of a nursing home administrator, or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that such applicant or licensee:

(1) Has violated any of the provisions of the law pertain-

ing to the licensing of nursing home administrators or the rules and regulations of the board pertaining thereto;

(2) Has willfully or repeatedly violated any of the provisions of the law, code, rules, or regulations of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction of the operation and licensing of nursing homes;

(3) Has been convicted of a felony involving moral turpitude;

(4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;

(5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;

(6) Has practiced fraud, deceit, or misrepresentation in his capacity as a nursing home administrator;

(7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;

(8) Is addicted or dependent upon the use of alcohol, controlled substances or other drugs; or

(9) Has wrongfully transferred or surrendered possession, either temporarily or permanently, his license to any other person.

Section 7. Complaints and Hearing Procedures. Any person, public officer, or association, or the board may prefer charges against any licensee:

(1) Such charges shall be in writing and shall be submitted to the board.

(2) The board, or any person or persons appointed by it for the said purpose, may hold a preliminary hearing to determine whether a formal hearing on the charges is necessary.

(3) The board may dismiss the charges and take no action thereon, by formal hearing or otherwise, in which event the charges and the order dismissing the charges shall be filed with the board.

(4) If the board decides that the charges shall be heard formally, the board may hear the charges or designate a hearing officer to hear the charges and set a time and place for a hearing.

(5) A copy of the charges, together with notice of the time and place of the hearing, shall be served on the accused at least thirty (30) days before the date fixed for the hearing.

(6) Upon the conclusion of the hearing, the board may revoke the license of the accused, or suspend such license for a fixed period, or reprimand, or take other disciplinary action, or dismiss the charges.

(7) An order of suspension made by the board may contain such provisions as to reinstatement of the license as the board shall direct.

Section 8. Conduct of Hearing. At any hearing conducted pursuant to this regulation, any party to the proceedings may appear personnally and with counsel and shall be given the opportunity to introduce evidence and witnesses and to cross-examine witnesses:

(1) At any formal hearing conducted pursuant to this regulation, if a party shall appear without counsel, the board or person designated as a hearing officer shall advise such party of his right to be represented by counsel; and that if he desires to proceed without counsel that he may call witnesses, cross-examine witnesses, and introduce evidence in his behalf.

(2) Appearances shall be noted on the official record of hearing.

(3) The board or designated hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a day certain.

(4) If an adjournment is requested in advance of the hearing date, such request shall be submitted in writing and shall specify the reason for such request.

(5) In considering an application for adjournment of a hearing the board or hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

(6) The board or designated hearing officer shall issue subpoenas and subpoena duces tecum upon request of any party to the proceedings of any hearing set down by the board.

(7) The board or hearing officer shall not be bound by the strict rules of evidence in the conduct of a hearing, but the determination and recommendations of the hearing officer shall be founded upon sufficient legal evidence to sustain them.

(8) Upon the conclusion of a hearing the board shall take such action upon such written findings and determinations as it deems proper.

Section 9. Display of Licenses. Every person licensed as a nursing home administrator shall display such license and certificate of biennial registration in a conspicuous place in the office or place of business or employment of such licensee.

Section 10. Duplicate Licenses. The board may issue a duplicate license upon payment of a fee of ten dollars ($10).

Section 11. Inactive Licensure Status. (1) A licensed nursing home administrator in good standing may be placed on inactive status upon request to the board and payment of a biennial fee of twenty dollars ($20), which is not refundable.

(2) Licensees on inactive status shall be subject to the same renewal provisions as those on active status, except that no continuing education credits are required during the inactive period.

(3) A licensee on inactive status may revert to active status by:

(a) Making written application to the board;

(b) Payment of a biennial licensure fee of $100;

(c) Successfully passing an examination administered by the board.

(4) The effective date of the return to active status will be the date board approval is granted and will establish a new anniversary date for renewal purposes only, and the original licensure date remains unchanged.

DOUG BORDERS, Chairman

ADOPTED: May 23, 1979

RECEIVED BY LRC: June 1, 1979 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director Division of Occupations and Professions, P. O. Box 456, Frankfort, Kentucky 40602.

DEPARTMENT OF FINANCE
State Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:040. License fees.

RELATES TO: KRS 311.530 to 311.620, 311.990
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish a fee schedule as authorized by KRS 311.565(2)(m) for examinations, directories, and the issuance and renewal of licenses and permits.

Section 1. Fee schedule:
(1) Admission to any complete examination including a regular or limited license issued as a result thereof (The charge for a partial examination shall be prorated according to the number of sections taken.) .... *$150* [$125].
(2) Application for regular license by reciprocity or endorsement .....$125.
(3) Application for limited license by reciprocity or endorsement .....$50.
Balance of fee to be paid when full license granted.....$75.
(4) Certifying a licentiate of Kentucky to the licensing agency of another state.....$15.
(5) Certifying the grades of a licentiate of Kentucky to the licensing agency of another state.....$5.
(6) Each renewal of a limited license.....$20.
(7) Duplicate license certificate .....$10.
(8) Application for regular license by endorsement from National Board of Medical Examiners for medical school graduates of Kentucky .....$65.
(9) Temporary permit (Pursuant to KRS 311.575(2) this fee will be credited upon the prescribed fee for a regular license if subsequently issued by the board).....$25.
(10) Emergency permit .....No charge.
(11) Each copy of the "Kentucky Medical Directory" (Other than Kentucky medical licensees, hospitals, medical and osteopathic schools, and other official licensing boards).....$3.
(12) Annual registration and renewal of license ....$12.

JOHN C. QUERTERMOUS, M.D., President
ADOPTED: April 26, 1979
RECEIVED BY LRC: May 22, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. C. William Schmidt, Assistant Secretary, Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Real Estate Commission
(Proposed Amendment)

201 KAR 11:060. Broker's name required on advertising.

RELATES TO: KRS 324.115
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: *To eliminate misinterpretation of the present regulation by licensees in the field.* [To inform and set certain standards for the licensees and to protect the public.]

Section 1. Unless otherwise prohibited by law, the *principal* [employing] broker's name and the fact that he is a real estate broker, shall appear in all advertising of any nature whatsoever, including newspaper ads, all signs, stationery, cards, etc., in order that the general public be advised of the licensed broker. [Firm name only is required on newspaper classified ads. This regulation shall apply only to those brokers who are doing business under a firm name or assumed name other than their own.]

Section 2. The name of the *principal* [employing] broker on all posted signs shall be not less than *two (2) inches in height.* [one (1) inch in height.]

Section 3. The deceased broker's name may remain a part of the firm name.

Section 4. Only brokers, broker-salesmen, *and associate brokers* may have their name in the firm name. [(No salesman's name may be a part of the firm name.)]

Section 5. Any salesman or broker *acting* [employed] as a salesman must advertise in the name of his *principal* [employing] broker, even when selling his own property.

JOHN A. CELLETTI, Chairman
ADOPTED: March 29, 1979
RECEIVED BY LRC: May 24, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: General Counselor, Kentucky Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

DEPARTMENT OF FINANCE
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:105. School districts.

RELATES TO: KRS 317A.060
PURSUANT TO: KRS 317A.050
NECESSITY AND FUNCTION: The seven (7) Con-

gressional Districts provide an equal division for the location of beauty schools. The number of *twenty (20)* [eight (8)] per Congressional District would allow all districts to have an equal number of schools *and would not prohibit competition.*

Section 1. To protect the public and implement the provisions of KRS Chapter 317A, the state is hereby divided into seven (7) districts the same as the United States Congressional Districts and shall change when the Congressional Districts are properly changed. At all times these districts shall remain in conformity with these Congressional Districts:

(1) District 1. Fulton, Hickman, Carlisle, Ballard, McCracken, Graves, Marshall, Calloway, Livingston, Crittenden, Lyon, Trigg, Caldwell, Union, Webster, Hopkins, Christian, Henderson, McLean, Muhlenberg, Todd, Logan, Butler and that portion of Ohio not in District 2.

(2) District 2. Daviess, Warren, Simpson, Allen, Barren, Edmonson, Hart, Grayson, Hancock, Breckinridge, Meade, Hardin, Larue, Marion, Washington, Nelson, Bullitt, Spencer, Anderson, and that portion of Ohio not in District 1.

(3) District 3. Louisville and Jefferson County precincts presently constituting United States Third Congressional District of Kentucky.

(4) District 4. Jefferson County exclusive of District 3, Oldham, Trimble, Carroll, Gallatin, Boone, Kenton, exclusive of that portion in District 6.

(5) District 5. Taylor, Greene, Metcalfe, Monroe, Adair, Cumberland, Casey, Russell, Clinton, Lincoln, Pulaski, Wayne, Rockcastle, McCreary, Estill, Lee, Jackson, Laurel, Whitley, Owsley, Clay, Knox, Bell, Leslie, Harlan, Garrard, Madison, and that portion of Jessamine not in District 6.

(6) District 6. Henry, Shelby, Owen, Franklin, Scott, Woodford, Mercer, Boyle, Harrison, Bourbon, Fayette, Jessamine, Clark, Grant, Pendleton, Kenton, and Campbell.

(7) District 7. Fleming, Bath, Menifee, Wolfe, Lewis, Rowan, Morgan, Breathitt, Perry, Greenup, Carter, Elliott, Magoffin, Knott, Letcher, Boyd, Lawrence, Johnson, Floyd, Martin, Pike, Bracken, Mason, Robertson, Nicholas, Montgomery, Powell.

Section 2. For the protection of the public good and welfare, for the public's protection against misrepresentation, deceit or fraud in the teaching of beauty culture, no new license for a school of cosmetology shall be issued which would cause any district, as defined in Section 1, to have more than *twenty (20)* [eight (8)] such schools of cosmetology.

Section 3. (1) No school of cosmetology presently existing and licensed or hereafter licensed, shall be permitted to move or transfer from one district to another district, as defined in Section 1, without application being made to, and approval received from the board.

(2) No school of cosmetology presently existing and licensed, or hereafter licensed, shall be permitted to move or transfer from one district to another district, as defined in Section 1, if such move or transfer would cause such district to have more than *twenty (20)* [eight (8)] such schools of cosmetology as provided in Section 2.

Section 4. Nothing in the above sections shall be construed to prevent the issuance or the re-issuance of license to an existing beauty school.

Section 5. This regulation controls the location of private schools only.

CARROLL ROBERTS, Administrator
ADOPTED: May 7, 1979
RECEIVED BY LRC: June 11, 1979 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carroll Roberts, Administrator, State Board of Hairdressers and Cosmetologists, 304 West Liberty, Suite 300, Louisville, Ky. 40202.

DEPARTMENT OF FINANCE
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:130. School fees for services.

RELATES TO: KRS 317A.060
PURSUANT TO: KRS 317A.050
NECESSITY AND FUNCTION: Schools are considered establishments of teaching and learning and should not operate as a beauty salon or charge the public or students enrolled additional fees.

Section 1. [A school is not permitted to operate as a beauty salon. Prices for service rendered the public shall cover operational costs only.] *Each school must submit* a price list [may be submitted] to the board for approval. *The prices indicated shall be the maximum price that shall be charged for the services indicated. Any price increase must be submitted to the board for approval.* [The board reserves the right to approve the said price list.]

Section 2. *The board reserves the right to disapprove a price list submitted by a school if said price list is proven excessive.* [All schools not submitting a price list in compliance with this regulation shall be governed by the most recent price list supplied to all schools by this board. The board's list shall be the maximum price that may be charged for the services so indicated.]

Section 3. A copy of such prices must be posted on a card in each room of the school where work is done on the public. Price list must be printed in type large enough to be read at a distance of ten (10) feet.

Section 4. Schools shall not be permitted to charge students additional fees for demonstrations, nor shall any supply house or manufacturer be permitted to charge students fees for such demonstrations.

CARROLL ROBERTS, Administrator
ADOPTED: May 9, 1979
RECEIVED BY LRC: June 11, 1979 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carroll Roberts, Administrator, State Board of Hairdressers and Cosmetologists, 304 West Liberty, Suite 300, Louisville, Ky. 40202.

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:115. Propagation of fish, frogs, crayfish or aquatic organisms.

RELATES TO: KRS 150.280, 150.290, 150.485, 150.450
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: It is necessary to regulate the manner of propagation in order to protect the native wild species from exploitation, disease, and parasites. *This amendment is to provide a permit for holding protected aquatic wildlife in accordance with KRS 150.280.*

Section 1. A *commercial propagation* permit shall be required for the propagation of all species of fish, frogs, crayfish, or aquatic organisms.

Section 2. All applications for fishes, frogs, crayfish, or aquatic organisms propagation farm permits shall be made on standard forms available from any conservation officer and shall carry the approval of such officer. Upon notification by the applicant, the conservation officer shall inspect the applicant's ponds and other equipment needed for propagation and enter all information on the standard fishery propagation application form.

Section 3. Should there be need for a seine larger than ten (10) feet, such may be authorized in the propagation permit. Each seine authorized shall have a metal tag attached which states the name of the owner, size of seine and date permit expires; this tag to be furnished by the Department of Fish and Wildlife Resources. No seine authorized under the permit shall be used accept in waters designated in the application.

Section 4. A propagator may obtain under the supervision of a conservation officer 1,500 minnows or crayfish for brood stock, one (1) time only, from public waters for stocking each surface acre of water to be used for propagation of a particular species.

Section 5. The propagation farm or permit holder shall allow inspection by a conservation officer at any time. Should the officer find a violation of any of the terms of this regulation, such shall be cause for the immediate cancellation of said permit. Fees paid for permits will not be refunded in case permit is revoked. Permits shall remain valid one (1) year from date of issue.

Section 6. Any or all species of fish, frogs, crayfish, or aquatic organisms propagated may be sold at the discretion of the permit holder at all times and the permit form itself shall be proof that these species were legally obtained.

Section 7. When any propagation permit expires and is not renewed or when any permit is revoked for a violation of the game and fish codes, all equipment that is approved under this permit that is illegal without the permit shall be confiscated.

Section 8. Those individuals who wish to hold undersize game fish in an aquarium must obtain a fisheries pet permit and purchase said fish from a licensed commercial propagator or obtain from the department when such species are conveniently handled.

CARL E. KAYS, Commissioner
ADOPTED: June 1, 1979
APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: June 14, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:120. Live fish sales and handling; *licensure* [licensee].

RELATES TO: KRS 150.175, 150.180, 150.190, 150.235, 150.485
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation is necessary in order to control the flow of live fish from and into natural waters and commercial channels to prevent the spread of disease or undesirable species. *This amendment is necessary to eliminate a reference that seems to conflict with interpretation of statute.*

Section 1. All individuals or companies who sell retail or wholesale or who place fish in a body of water for fee fishing purposes must have a live fish and bait dealers license issued in the name of the individual or company that is transacting business in this Commonwealth. This license or an exact copy thereof, must be in the possession of the persons who are transporting, selling or possessing these fish for sale in Kentucky. [This license is not in lieu of a propagation or transportation permit if they also are applicable to the operation.]

Section 2. Those individuals or companies transporting live fish from one (1) state to another state through Kentucky without conducting any type of business in this Commonwealth are not required to have a live fish and bait dealers license, but must have a valid transportation permit.

Section 3. *Valid holders of commercial propagation permits and* those individuals or companies who sell any of these fish for food in establishments licensed by another state agency to sell retail or wholesale food stuffs are not required to have a live fish and bait dealers license.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: June 1, 1979
APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: June 14, 1979 at 11 a.m.
SUBMIT COMMENTS OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:140. *Special* [Experimental] commercial fishing permit.

RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.190, 150.450
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: Gill and trammel nets are the most effective gear for the taking of certain rough fishes, but they pose a danger of overharvest of the most desirable rough species and are a threat to certain sport fish if not properly regulated; therefore, the Commissioner with the concurrence of the Commission finds a need to authorize additional use of such gear experimentally through the issuance of a permit which will have strict termination provisions and other safequards to control their use. *This amendment is necessary to include additional refinements based on a period of experimentation.*

Section 1. Issuance of Special Experimental Permit. The commissioner, after giving due consideration to the composition of the commercial fish population, the vulnerability of the game fish involved, and the ability and reliability of the applicant may issue a special [experimental] commercial fishing permit to use [four (4) inch bar mesh] gill and trammel nets in specified waters, other than those designated in 301 KAR 1:145, Section 2(4)(b) [, with the exception that the minimum net mesh size shall be three and one-half (3½) inches in Rough River Lake].

Section 2. Application for Permits and Revocation. An applicant for a special [experimental] permit to use gill and trammel nets shall file an application to which he signs his name attesting that he has read and will abide by all of the provisions of the permit and will obey all applicable game and fish laws and regualtions or have his permit revoked without refund if found in violation by the commissioner. The offending permittee and assistant[s] shall be ineligible to apply together or separately for another permit for a period of one (1) year following revocation.

Section 3. General Provisions of the Special Experimental Permit to use [Four (4) Inch Bar Mesh] Gill and Trammel Nets. (1) The applicant for a permit must possess a valid commercial fishing license.
(2) The permit fee shall be $500.
(3) Mesh size:
(a) Gill and trammel nets set and left must have a bar mesh size no smaller than three and one half (3½) inches.
(b) Gill and trammel nets used as whip sets may have a minimum bar mesh size of three (3) inches, but must be constantly attended by the permittee and/or assistant.
(4) [(3)] Waters open to special [experimental] permit fishing:
(a) Commercial fishing waters of Rough River Lake.
(b) Commercial fishing waters of Barkley Lake.
[(b) Commercial fishing waters of Cumberland Lake.]
(c) Commercial fishing waters of Kentucky Lake.
(5) [(4)] The permit shall be valid for *five (5) months only, November 1 through March 31.* [one (1) year from date of issue.]
(6) [(5)] The permittee shall have no more than *one (1)* [two (2)] assistant[s] who *is a* [are] licensed commercial *fisherman* [fishermen] listed on the permit. Assistant[s] may be replaced at any time, after the conservation officer or officers in the counties fished are notified, and a written notice given to the commissioner. The name of a new assistant must be listed on the permit and all copies, and his predecessor's name marked out with ink.
(7) [(6)] The permittee or assistant[s] must have the permit or copy of the permit in possession at all times gear is being transported, set, raised, or run. Their names shall be on the permit or copy, and each must contain the same names.
(8) [(7)] Illegal acts by permittee or assistant[s] acting together or separately may result in permit revocation.
(9) [(8)] The permittee shall *keep daily* [make quarterly] catch and sales reports *and submit weekly* to the commissioner [no later than thirty (30) days following the end of March, June, September, and December]. No subsequent permit *shall* [will] be issued until *all* [the final quarterly] reports required by the preceding permit *are* [is] received by the commissioner. The reports shall include:
(a) The number of each species caught by common name.
(b) Disposition of each fish.
(c) Duplicate sales receipts of all fish sold.
(d) The average total length of nets fished daily listing gill and trammel nets separately *and whip sets separately.*
(e) Daily catch and sales reports and duplicate receipts of fish and fish products sold must be sent in weekly in postage paid envelopes provided by the department.
(10) [(9)] All rough fish taken in the nets must be removed from the lake.
(11) [(10)] Each net must be run at least once every twenty-four (24) hours.
(12) [(11)] Each 100 feet of net must have attached one (1) *commercial* [special experimental] gear tag [provided by the commissioner with the permit or upon subsequent request by the permit holder which shall serve in lieu of the gear tags] *as* required in *KRS 150.175, subsection (6)* [301 KAR 1:145, Section 2(4)(b).] *Tags shall be grouped on the inshore end of each continuous net.*
(13) A permittee must tag and fish at least 800 yards of nettage an equivalent of twenty-five percent (25%) of the open season.

CARL E. KAYS, Commissioner
ADOPTED: June 1, 1979
APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: June 14, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:155. Commercial fishing requirements.

RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.445, 150.450
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: It is necessary to regulate the manner of taking of rough fishes for commer-

cial use, to avoid conflicts with other interests, and to utilize and conserve the populations of these fishes. *This amendment is necessary to authorize more effective means for taking commercial fishes.*

[Section 1. The handling or transportation on or in water of any type of commercial gear is illegal during hours of darkness. Gear may remain in the water at all times, but activities of the commercial fisherman must be confined to daylight hours, except in that portion of the Cumberland River between Highway 62 bridge and its junction with the Ohio River.]

Section *1.* [2.] Each person fishing with any commercial gear, or assisting another in the doing of such acts, must have in possession an appropriate commercial fishing license and an appropriate tag or tags attached to each piece of gear in such a manner and in such a position that enforcement officers can, without undue difficulty, determine whether or not the fishing gear in use or possession has been properly licensed, and the operator of the gear at the time of inspection is complying with statute and regulation.

Section *2.* [3.] No person shall have in possession any seines, nets or commercial trotlines, except that gear permitted in a specific permit from this department, or that gear legal under live bait regulations, unless he has procured an appropriate commercial fishing license and legal tags for each piece of gear and has such tag or tags attached to the gear at all times. This section shall not be construed to require manufacturers, retail or wholesale dealers, who have such gear in their possession for sale only, to obtain licenses or tags.

Section *3.* [4.] Commercial gear shall not be fished within fifty (50) yards of any outlet or inlet of an overflow lake, within fifty (50) yards of the mouth of any stream except the mouth of the Ohio River, or within 200 yards below any dam or any stream.

Section *4.* [5.] Any fish, taken by commercial gear, designated as sport fish, largemouth bass, smallmouth bass, Kentucky bass, coosa bass, rock bass, white crappie, black crappie, walleye, sauger, rockfish (striped bass), white bass, yellow bass, musky, northern pike, chain pickerel and trouts must be returned immediately to the waters from which taken, without undue injury. All other species are designated as rough fish and may be taken as herein described, except those species which are designated as endangered species by regulation and duly advertised.

Section *5.* [6.] Each piece of commercial gear in use in any of the waters of the Commonwealth must be tended every twenty-four (24) hours, and all fish caught by that piece of gear removed, *except baited hoop nets or slat traps may be left three (3) days without disturbing.* In addition, each piece of commercial gear must be removed from the waters in which it has been fished at the termination of its use in fishing. Failure to comply shall constitute a violation and sufficient grounds for the enforcement officer to confiscate the gear not tended or abandoned. Also, the owner of the gear shall be charged with violating this regulation and penalized according to KRS 150.990.

Section *6.* [7.] The use of commercial nets of any type is illegal in the bays and inlets and for a distance of 200 yards from the mouth of each bay or inlet in Kentucky and Barkley lakes[.] *except November 1 through March 31.*

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: June 1, 1979
APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: June 14, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:040. Upland game shooting preserves.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.240, 150.330
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation pertains to shooting preserves for upland game birds and ungulate animals. This regulation is necessary to insure that detrimental exotic game species are not introduced or interfere with the Department's present or future experimental game bird releases. It also insures some uniformity of upland and big game shooting preserve operating procedures. The function of this regulation is to protect native wildlife and uniformity in upland and big game shooting preserve operating procedures.

Section 1. Hunting Seasons. (1) Pheasants—*September 1 through May 15* [October 1 through April 15] inclusive.
(2) Chukar and other exotic partridges—*September 1 through May 15* [October 1 through April 15] inclusive.
(3) Ducks—*September 1 through May 15* [October 1 through April 15] inclusive.
(4) Bobwhite quail and/or Coturnix quail—*September 1 through May 15* [October 1 through April 15] inclusive.
(5) Ungulate species—*September 1 through May 15* [October 1 through April 15] inclusive.
(6) Other game—conform with statewide regulations.

Section 2. Upland Game Birds. (1) Permits and applications. A shooting preserve permit renewable annually on July 1, shall be required for the operation of any public or private shooting preserve for upland game birds. Applications for shooting preserve permits shall be made on standard forms supplied by the Department of Fish and Wildlife Resources. All applications for commercial shooting preserve permits shall be signed by all persons having a financial interest in the preserve. All applications for private shooting preserve permits shall be signed by the president, treasurer and secretary of the organization and a list of the members shall accompany the application. The applicant for a preserve permit shall produce evidence that he is the owner or a bona fide lessee of record of the land where he proposes to establish a shooting preserve. No shooting preserve permit shall be issued to any private association which intends to limit shooting privileges to associate members and which has less than 150 members.

(2) Grounds for permit refusal and suspension. The department may refuse to issue a permit in any area where substantial evidence indicates that the establishment of a shooting preserve would be detrimental to stocking and experimental programs conducted by the department. In no event shall a shooting preserve permit be issued for an area which lies within five (5) miles of an established release point for birds stocked by the department. The department shall suspend the permit provided for herein permanently or temporarily, when they have received substantial evidence that the operator or employee of a commercial shooting preserve, or any associate member of a private shooting preserve, has failed to comply with any provisions of these regulations, or any applicable law or regulation dealing with conservation of wildlife. If the violation or failure to comply occurs during the closed season, the suspension, temporary or permanent, shall be made to apply during the open season. In the case of subsequent violations, the department may suspend the permit for a period of time, or revoke it permanently, at its discretion.

(3) Nonresident license. Preserve operators desiring to sell nonresident shooting preserve licenses must furnish the Department of Fish and Wildlife Resources, [Capital Plaza Tower] Frankfort, Kentucky 40601, with a surety bond in the amount of $500. At the end of each month from *September* [October] through *May* [April], inclusive, the preserve operator shall submit to the department all money received from the sale of nonresident shooting preserve licenses.

(4) Shooting preserve size requirements and posting. Shooting preserves for upland game birds shall have no minimum acreage requirements, but shall consist of not more than 1,000 acres in one (1) block. Under no circumstances shall the department issue permits for shooting preserves in excess of 1,500 acres in any one (1) county.

(5) The entire boundary of each licensed shooting preserve shall be marked with signs of a type prescribed by the Department of Fish and Wildlife Resources. Signs shall be not more than 400 feet apart and all boundaries not bordered by a natural stream or road shall be bounded by a minimum of a single wire four (4) feet above the ground level. The applicant shall bear the entire cost of posting and bounding.

(6) Operating rules and reporting requirements:

(a) No person shall hunt or attempt to hunt, in any manner, or carry a gun on any licensed upland game shooting preserve without first registering and checking in with the owner, operator or keeper of the game preserve.

(b) No resident or nonresident shall hunt on a shooting preserve without a current resident or nonresident *Kentucky* hunting license.

(c) Bird dogs or beagles may be trained throughout the year on a licensed shooting preserve provided that the party doing the training possesses a valid Kentucky resident or nonresident hunting license (except as exempted by KRS 150.170(3),(5) and (6)). Field trials may be held throughout the year on a licensed shooting preserve. Residents or nonresidents attending and participating in field trials as authorized by permit from the department may so attend and participate without obtaining a Kentucky hunting license so long as game is not taken. Residents or nonresidents attending or participating in field trials that are not authorized by permit from the department, may so attend and participate if they possess a valid Kentucky resident or nonresident hunting license.

(d) All game birds or waterfowl except Bobwhite quail and/or Coturnix quail killed on the shooting preserves shall be tagged before leaving the preserve. Bobwhite quail and/or Coturnix quail shall be banded prior to their release. Such tags or bands shall remain on the leg of the given species until prepared for cooking. Tags and bands shall be supplied the operator at cost by the Department of Fish and Wildlife Resources. Properly tagged birds killed on a shooting preserve may be processed or transported throughout the state by the shooter during the open season and properly tagged birds may be possessed in a frozen food locker.

(e) Mallards and black ducks may be taken on a licensed shooting preserve provided a right hind toe is clipped.

(f) At the end of each month from *September* [October] through *May* [April], inclusive, the preserve operator shall submit to the Department of Fish and Wildlife Resources the names, addresses and hunting license numbers of all hunters.

(g) Preserve operators must obtain and retain for one (1) fiscal year (July 1—June 30 of the following year) a receipt showing evidence of purchase of upland game bird eggs or birds. The receipt shall show the number of eggs or birds purchased by species.

Section 3. Ungulate Animals. (1) Any person holding a commercial shooting preserve permit may release for shooting purposes on his licensed area and under stipulated conditions, ungulates (hoofed animals) legally acquired and approved by the commissioner.

(2) Size requirements. The shooting area for ungulates shall be a single body of land not less than 300 acres or more than 1,000 acres and shall be so fenced as to enclose and contain all released animals, and exclude all hoofed wildlife of the state from becoming a part of the enterprise.

(3) Records and reporting. The permittee shall keep a record of the number of each species released and the number killed. Records shall also be kept of the names, addresses, hunting license numbers and game killed by species by each hunter. At the end of each month from *September* [October] through *May* [April], inclusive, the preserve operator shall submit these records to the Department of Fish and Wildlife Resources.

(4) License and transporting requirements. Each person taking game or hunting on such area shall have in his possession a current resident or nonresident *Kentucky* hunting license, or special license for nonresidents for purpose of hunting on licensed hunting preserves. Game taken on such areas may be possessed and transported only when accompanied by a bill of sale showing the date, commercial hunting permit number and name and address of taker.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman

ADOPTED: June 1, 1979
APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: June 12, 1979 at 2 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:120. Shoot to *retrieve* [kill] field trials.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.235, 150.237, 150.305, 150.330, 150.360
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation is necessary to control hunting seasons and conditions governing shoot to *retrieve* [kill] field trials on private *and government-owned* land*s* and the game bird species allowed. The function of this regulation is to provide additional hunting and dog training opportunities and to control the introduction of exotic game birds that may be detrimental to native species or the department's experimental game bird releases. It also insures that native game birds are harvested only during the regular small game hunting season.

Section 1. Hunting Seasons and Game Birds Allowed. Domestically reared and banded quails, chuckar partridge and pheasants may be hunted during *September 1* [October 1] through *May 15* [April 15] inclusive on *private and government-owned* [privately owned] land*s* under a shoot to *retrieve* [kill] field trial permit issued by the department. The use of other domestically reared game birds may be authorized by the department upon written request.

Section 2. Bag and Possession Limits. There are no bag and possession limits.

Section 3. Banding Requirements. All domestically reared game birds listed in Section 1 must be leg banded prior to release. Bands may be obtained at cost from the department at the time the permit is applied for.

Section 4. License Requirements. Residents and nonresidents participating in shoot to *retrieve* [kill] field trials as authorized by permit from the department, must possess a valid Kentucky hunting license.

Section 5. Transporting and Possession of Game Birds. Birds harvested under this regulation must remain banded until prepared for cooking.

Section 6. Permits, Applications and Fees. (1) Application. Application for a shoot to *retrieve* [kill] field trial must be made through the conservation officer in whose county the trial is to be held or through the district supervisor at least fourteen (14) days prior to the trial opening date. Written permission of the *private* landowner *or appropriate government authority* must be obtained and submitted with the application. The permit will be issued through the department's office in Frankfort.
(2) Fee. There will be a twenty-five dollar ($25) per day fee for each day the trial is to be held. This fee must be submitted with the permit application.
(3) A permit is not required to conduct shoot to retrieve field trials on licensed shooting preserves during the specified shoot to retrieve field trial season.

Section 7. Rescheduling and Cancellations. A scheduled shoot to *retrieve* [kill] field trial date or place may be changed by notifying the conservation officer, [or] district supervisor *or appropriate government authority* on or prior to the original opening date. If the place is changed, written permission of the *private* landowner *or appropriate government authority* must be submitted to the conservation officer or district supervisor. Fees for cancelled field trials will not be refunded.

Section 8. Bird Replacement and Out-of-Bounds Birds. (1) Replacement of unbanded quail. Unbanded quail harvested outside of the regular small game hunting season dates must be replaced at the end of the trial by releasing an equal number of live quail.
(2) Out-of-bounds birds. Field trial game birds may be hunted only on the land described in the permit.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: June 1, 1979
APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: June 12, 1979 at 2 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 1:020. Length of employment.

RELATES TO: KRS 157.390(2)(a)
PURSUANT TO: KRS 13:082, 156.070, [156.130,] 156.160
NECESSITY AND FUNCTION: To provide approved employment under the minimum foundation program beyond the regular school term for administrative and special instructional service units, supervisors of instruction units, director of pupil personnel units, and vocational units and superintendent units.

Section 1. School districts shall be allotted teachers' salaries for more than 9.25 months by the minimum foundation program for classroom units listed below. Allotments shall be limited to the lesser of:
(1) The number of months employed in the position;
(2) Maximum months under this regulation; or
(3) The months approved under a program for lengthened employment.

Section 2. The following positions shall be allotted a maximum of 2.75 months extended employment:
(1) Superintendent;
(2) Assistant superintendent;
(3) Finance officer and school business administrator;
(4) Principal who administers a school with twenty-five (25) or more full-time equivalent teachers under his supervision;
(5) Supervisors of instruction;
(6) Directors of pupil personnel in districts with *1,350* [fifty (50)] or more *in average daily attendance for the end of the previous school year in grades one (1) through twelve (12)* [basic classroom units allotted];

(7) Local director of vocational education;
(8) Teachers of vocational education in:
(a) Agribusiness;
(b) Business and office;
(c) Marketing and distributive education;
(d) Health and personal services;
(e) Home economics;
(f) Public service;
(g) Special vocational programs;
(h) Industrial education level III.

Section 3. The following position shall be allotted a maximum of two (2) months extended employment: Principal who administers a school with from 12.0 to 24.9 full-time equivalent teachers under his supervision.

Section 4. The following positions shall be allotted a maximum of 1.25 months extended employment:
(1) Assistant principal assigned to a school with 25.0 or more full-time equivalent teachers;
(2) Full-time guidance counselors.

Section 5. The following positions shall be allotted a maximum of one (1) month extended employment:
(1) Full-time school media librarians and school media specialist.
(2) Principal who administers a school with from 8.0 to 11.9 full-time equivalent teachers under his supervision;
(3) Directors of pupil personnel in districts with fewer than *1,350 in average daily attendance for the end of the previous school year in grades one (1) through twelve (12)* [fifty (50) basic classroom units allotted].

Section 6. A program plan for lengthened employment for all positions listed in this regulation with the exception of superintendent, assistant superintendent, finance officer, school business administrator, and director of pupil personnel shall be submitted annually to the Superintendent of Public Instruction for approval.

JAMES B. GRAHAM,
Superintendent of Public Instruction
ADOPTED: April 26, 1979
RECEIVED BY LRC: May 22, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, State Board of Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 3:050. *Application to exceed budget.* [Budget not to be exceeded.]

RELATES TO: KRS 160.550
PURSUANT TO: KRS 13.082, 156.070, [156.130,] 156.160
NECESSITY AND FUNCTION: To provide a safeguard against deficit spending by local boards of education.

Section 1. The Superintendent of Public Instruction shall determine on the basis of evidence submitted in an application *provided by the Division of Local School District Finance to exceed the current budget* of a local board of education whether or not an emergency exists within the meaning of KRS 160.550. The Superintendent of Public Instruction shall examine carefully all facts pertaining to the claimed emergency and take such action as he deems appropriate, including the authority to declare an emergency in those cases where the health and safety of the pupils of the school district are placed in jeopardy or the school program disrupted.

Section 2. Any application *to exceed the current budget* filed under this regulation, as well as any emergency declared by the Superintendent of Public Instruction, shall be submitted to the State Board *for* [of] *Elementary and Secondary* Education for *a* final *decision* [approval].

[Section 3. Each board of education shall amend its working budget to conform to salaries paid to instructional personnel as of February 1. This amendment shall be submitted to the Division of Finance on or before March 1.]

JAMES B. GRAHAM
Superintendent of Public Instruction
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EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

703 KAR 2:010. Terms and months.

RELATES TO: KRS 158.060, 158.070
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation is necessary for efficient management, control and operation of schools and to insure uniformity in the school term, and month in all *approved* schools of the state.

Section 1. The minimum school term of 185 days shall consist of nine (9) twenty (20) day school months and one (1) partial school month of five (5) days. Schools shall be in session on each of these days excepting days on which schools are dismissed to observe holidays or for teachers to attend professional meetings within limits of State Board for Elementary and Secondary Education regulations.

Section 2. Days dismissed to observe holidays or for teachers to attend professional meetings within limits of the State Board for Elementary and Secondary Education regulations shall be counted as school days and included in the school month.

Section 3. If a school district has been properly approved and accumulated days prior to an emergency as provid-

ed by KRS 158.060, these days may be recorded in the pupil attendance records as "make-up" days on the date or dates the emergency occurs. If the school day is extended after the emergency occurs, the words "make-up" shall be written in the attendance records as the days are accumulated. "Make-up" days shall be used for the purpose of meeting requirements for a minimum school term as required by KRS 158.070 and no attendance shall be recorded for these days.

Section 4. Days on which school is not in session for reasons other than those specified by State Board for Elementary and Secondary Education regulations or in excess of the limitations therein provided, shall not be counted as school days nor included in the school month.

Section 5. No report shall be made until the completion of a twenty (20) day school month except that a report for the tenth school month shall be made at the conclusion of the school term.

Section 6. The use of part of the six (6) hour day may be used for supervising the lunch period and for supervising physical education if approved by the Bureau of Instruction on application of the superintendent of the district.

Section 7. Schools shall not be closed except in cases of emergency declared by the local board of education.

Section 8. No school or schools shall be closed or the day shortened for any outside activities such as teachers' conferences, recording of grades, athletic events, or for any other reason except when prior approval has been secured from the Bureau of Instruction for in-service work conferences.

Section 9. The provisions of this regulation shall apply to all pupils and no school day shall be shortened because of bus schedules or other factors.

JAMES B. GRAHAM
Superintendent of Public Instruction

ADOPTED: April 26, 1979
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EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 3:010. Administrative and special services.

RELATES TO: KRS 157.360[(6)]*(7), 156.160*
PURSUANT TO: KRS 13.082, 156.070, 156.130, 156.160
NECESSITY AND FUNCTION: To provide authorization of positions to be included in *classroom units for* administrative and special instructional services [classroom units] under the [minimum] foundation program.

Section 1. The following positions shall be *classroom units for* administrative and special instructional services [classroom units] under the [minimum] foundation program:

(1) Art education teacher;
[(2) Art program consultant;]
(2) [(3)] Assistant principal (shall be employed at least one-half (½) time in *the* position);
[(4) Assistant superintendent shall be employed full-time in position;]
[(5) Consultant in an academic subject field;]
[(6) Driver education teacher;]
[(7) School business administrator and/or finance officer shall be employed full-time in position;]
[(8) Guidance counselor;]
[(9) Health and/or physical education program consultant;]
[(10) Industrial arts teacher;]
[(11) Instructional coordinator shall be employed at least one-half (½) time in position;]
[(12) School media librarian and/or school media specialist shall be employed at least one-half (½) time in position;]
[(13) Local director of vocational education;]
[(14) Media consultant;]
[(15) Music education teacher;]
[(16) Music program consultant;]
[(17) Physical education teacher;]
[(18) Principal shall be employed at least one-half (½) time in position;]
[(19) Reading program consultant;]
[(20) School attendance worker;]
[(21) School health coordinator;]
[(22) School lunch director;]
[(23) School psychologist;]
[(24) School psychometrist;]
[(25) School social worker;]
[(26) Special education work-study program coordinator;]
[(27) Teacher consultant in programs for exceptional children;]
[(28) Visiting teacher.]
[(29) Instructional television coordinator.]
(3) Assistant superintendent (shall devote full-time to the position);
(4) Consultants:
(a) Academic subject fields;
(b) Elementary education;
(c) Reading;
(d) School media services;
(e) Teacher consultant for exceptional children.
(5) Driver education teacher;
(6) Guidance counselor;
(7) Industrial arts teacher;
(8) Instructional coordinator (shall be employed at least one-half (½) time in the position);
(9) Instructional television coordinator;
(10) Local director of vocational education;
(11) Media librarian (shall be employed at last one-half (½) time in the position);
(12) Music education teacher;
(13) Physical education teacher;
(14) Principal (shall be employed at least one-half (½) time in the position);
(15) School business administrator and/or finance officer (shall devote full-time to the position);
(16) School health coordinator;

(17) School lunch director;
(18) School psychologist;
(19) School psychometrist;
(20) School social worker/visiting teacher;
(21) Special education work-study program coordinator.

Section 2. The following administrative and special instructional service classroom units shall be allotted as basic classroom units provided the school district has not staffed its total basic classroom unit entitlement and has staffed more administrative and special instructional service classroom units than allotted:
(1) Art education teacher;
(2) Driver education teacher;
(3) Industrial arts teacher;
(4) Music education teacher;
(5) Physical education teacher.

JAMES B. GRAHAM
Suprintendent of Public Instruction
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EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 3:030. Special instructional service units.

RELATES TO: KRS 157.360
PURSUANT TO: KRS 13.082, 156.070, 156.160
NECESSITY AND FUNCTION: KRS 157.360 provides for the allocation of classroom units for administrators and for special instructional service personnel. This regulation is to furnish superintendents and boards of education with the minimum requirements for approval of special units.

Section 1. For the allocation of classroom units for administrative and special instructional services identified in 704 KAR 3:010 the local board of education shall be responsible for observing the following criteria:
(1) Personnel shall hold the approporiate teacher certification corresponding to the specific position or shall hold approval as otherwise described in Section 2.
(2) A program of services shall be developed which is appropriate to the position.
(3) Supporting instructional materials, equipment, and physical facilities shall be provided.

[Section 1. The Foundation Program provides for the allocation of classroom units for administrators and for special instructional service personnel. Three (3) factors shall be considered in the approval of administrative and special instructional services units:]
[(1) Personnel qualified as set forth in the criteria, teacher certification standards and state board regulations.]
[(2) A planned program approved by the State Department of Education.]
[(3) Satisfactory physical facilities, equipment, materials, and financial support as provided in the criteria and approved by the Department of Education.]

Section 2. (1) The Superintendent of Public Instruction will approve the employment of an assistant superintendent on an internship basis under the following conditions:
(a) The request shall be made by the local school superintendent and approved by the local board of education.
(b) The prospective assistant superintendent shall have been admitted to the program of preparation-certification for the school superintendency by the teacher education institution and shall lack no more than fifteen (15) semester hours graduate credit for the completion of the total program.
(c) The internship program shall be planned jointly by the teacher education institution and the local school superintendent and shall include provisions for completing the academic requirements within a two (2) year maximum period with at least nine (9) semester hours progress the first year.
(2) The Superintendent of Public Instruction will approve the employment of an assistant principal on an internship basis under the following conditions:
(a) The request shall be made by the local school superintendent and approved by the local board of education.
(b) The prospective assistant principal shall have been admitted to the program of preparation-cerfitication for the school principalship by the teacher education institution and shall lack no more than nine (9) semester hours graduate credit for the completion of the total program.
(c) The internship program shall be planned jointly by the teacher education institution and the local school superintendent and must include provisions for completing certification requirements for principalship before September 1 of the following school year.
(3) The instructional coordinator shall hold the same type of certification required for a supervisor of instruction or for a school principal at the appropriate level.
(4) Personnel qualified to serve in an approved unit for school health coordinator shall hold a teaching or administrative certificate valid for serving as a teacher at the high school and/or elementary level based on a minimum of a baccalaureate degree and meet the standards by one (1) of the following plans:
(a) Have preparation in a recognized area in health, physical education, and recreation or an area in home economics or a major or minor in one (1) of the following: health, health-physical education, biology, home economics.
(b) Have a total of twelve (12) semester hours consisting of six (6) semester hours natural science, three (3) semester hours in nutrition, health or physical education, and three (3) semester hours in human growth and development.

(5) The local director of vocational education shall have a master's degree and professional preparation in an approved curriculum of vocational education, three (3) years of progressively responsible experience working in vocational education programs, and shall hold the certificate designated for this position.
(6) If a fully certified person is not available for the position of school media librarian as attested by the local school superintendent, the superintendent on behalf of the

local board of education, may request a one (1) year approval for the assignment of a classroom teacher who is certified for the same grade levels as the anticipated school media librarian position and who has completed at least eight (8) semester hours credit from the endorsement program for school media librarians. Once assigned to the position the teacher may be reapproved on an annual basis upon completion of an additional eight (8) semester hours each year until the total endorsement program is completed. A letter of request for such approval shall be submitted by the local school superintendent to the Division of Teacher Education and Certification.

(7) A school psychologist legally certified or licensed for the position of school psychologist and employed within a local school district for the position during the 1978-79 school term shall have continuing approval for serving in the position of school psychologist so long as such legal certification or licensure is kept valid.

(8) The special education work study program coordinator shall hold certification valid as a teacher of special education.

(9) Personnel assigned to the position of instructional television coordinator shall hold a certificate valid for classroom teaching.

(10) Personnel assigned to a consultant position shall have the master's degree, certification in the appropriate subject field or service area, and at least three (3) years experience in the same teaching or service field.

(11) Effective with the 1980-81 school year new personnel serving in the unit of reading program consultant shall hold certification as reading specialist valid for the same grade levels as the assignment.

JAMES B. GRAHAM
Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 3:280. Professional performance improvement project.

RELATES TO: KRS 156.095
PURSUANT TO: KRS 13.082, 156.070, [156.130] 156.160
NECESSITY AND FUNCTION: KRS 156.095 authorizes the State Board of Education to establish a statewide program for the improvement of professional school personnel in the public common schools. This regulation establishes the procedures and processes for establishing and maintaining such a program.

Section 1. Each local board of education shall provide for the involvement of every professional school employee in an individualized program of self-evaluation and performance improvement through the application of the Kentucky Plan for Improving the Professional Performance of School Personnel.

Section 2. The Kentucky Plan for Improving the Professional Performance of School Personnel shall be defined as the process described below:

(1) To initiate the process, each professional school employee shall:

(a) Clarify with his immediate supervisor the expectations of the job he is assigned to perform;

(b) Determine that part of the assignment wherein he desires to improve his level of performance; and

(c) Consult with a professional colleague, selected by the employee and the immediate supervisor, to further refine the performance objectives and to develop a plan of action.

(2) A written plan of action is evolved which:

(a) Identifies the specific performance objectives;

(b) Schedules the steps or actions to be taken by the professional school employee and the supporting actions to be taken by others for the achievement of the performance objectives;

(c) States the means by which it will be determined that the performance objectives have been accomplished; and

(d) Includes dates for subsequent meetings.

(3) The professional school employee maintains appropriate records and each consultation period thereafter is utilized for:

(a) Progress review and modification of the original plan of action, as appropriate; and

(b) Repeating the process as additional performance objectives are identified.

Section 3. Each local board of education shall develop and implement a plan for improving the performance of all professional school personnel based upon the Kentucky plan. The local board of education shall adopt appropriate rules and regulations for the implementation of the plan. The local plan shall include provisions for:

(1) A local implementation committee to be appointed by the local school superintendent and to include classroom teachers as a majority of the committee;

(2) A definition of terms used in the local plan, examples of forms and reports to be used, and procedures to be followed;

(3) The application of the Kentucky plan to every professional school employee in the district; *and*

(4) Coordination with the comprehensive system of personnel development for the staff working with exceptional children.

Section 4. Each local board of education shall submit to the Superintendent of Public Instruction for approval the local school district plan for improving the professional performance of school personnel on such forms and dates as he shall determine.

Section 5. A local board of education may submit to the Superintendent of Public Instruction for approval an alternate local school district plan for improving the professional performance of school personnel, that is not based on the Kentucky plan, provided the alternate plan is submitted in written form and provided the alternate plan is in keeping with the philosophy expressed in KRS 156.095.

Section 6. The Superintendent of Public Instruction

shall appoint an Advisory Committee for Improving the Professional Performance of School Personnel to include representation from such professional organizations, lay organizations, and institutions as he deems appropriate. The Advisory Committee for improving the Professional Performance of School Personnel shall have the following duties:

(1) Make recommendations to the Superintendent of Public Instruction for the implementation of these regulations;

(2) Provide a continuous liasion and communications function between the institutions and organizations and the Department of Education;

(3) Conduct a continuing study of the various approaches to the improvement of professional personnel in operations in other states and to study the progress and the effectiveness of the application of the Kentucky project within the state and to make recommendations from time to time for the further refinement and improvement of the project in Kentucky; and

(4) Assist in the efforts to evaluate the effectiveness of the Kentucky Project for Improving the Professional Performance of School Personnel.

JAMES B. GRAHAM
Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 4:010. Physical education.

RELATES TO: KRS 156.160

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the Superintendent of Public Instruction to prepare regulations governing medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. *In addition, it is desirable to establish a working relationship between the State Board for Elementary and Secondary Education and the Kentucky High School Athletic Association for the governance of secondary school interscholastic athletic programs.*

Section 1. (1) All elementary school pupils shall receive organized physical education instruction which shall total a minimum of 120 minutes per week.

(2) In the secondary school, opportunities for physical education experiences shall be provided for each pupil. Each student shall earn a minimum of one-half (½) credit on the secondary level in health and one-half (½) credit in physical education as a graduation requirement.

(3) No elementary or secondary school shall be considered as having met physical education regulations until programs have been put into operation which meet the "Approved Guidelines *for* [of] Physical Education."

(4) A local board of education may authorize a child whose parents or guardian present a certificate from a licensed physician to the effect that because of the child's physical condition, participation in the one-half (½) unit physical education course is not in the best interest of the child, to substitute a physical education course which is within the capabilities of the child as specified by the child's physician.

Section 2. Each school shall include health instruction in its curriculum for grades K-12. All pupils shall receive health instruction in programs meeting the "Approved Guidelines *for* [of] Health Education."

JAMES B. GRAHAM
Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 4:020. School health.

RELATES TO: KRS 156.160

PURSUANT TO: KRS 13.082, 156.070, [156.130,] 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the Superintendent of Public Instruction to prepare regulations governing medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children.

Section 1. School employee medical examinations shall be required for the protection of the physical welfare and safety of the public school children:

(1) All local boards of education shall require a medical examination of each teacher upon initial employment which shall include a tuberculin skin test. All positive reactors shall obtain *an immediate* [a] chest x-ray for evidence of tuberculosis, *followed by the currently accepted practice of the Preventive Services Section, Bureau of Health Services, Kentucky Department for Human Resources, for treatment of tuberculosis infection or disease. No further tuberculin skin test or x-rays for tuberculosis shall be required following completion of treatment, unless symptoms occur.* [Local school authorities shall require each year thereafter a repeat tuberculin skin test for all tuberculin nonreactors and a chest x-ray for all positive reactors, followed by the currently acceptable treatment of tuber-

culosis infection or disease. Additional tests and examinations may be required as deemed necessary by the local boards of education.]

(a) A yearly chest x-ray shall be required if the above recommended preventive treatment for infection is not completed.

(b) Local school authorities shall require each year thereafter a repeat tuberculin skin test for all tuberculin nonreactors, with the above procedure followed when a teacher becomes a tuberculin reactor. Additional tests and examinations may be required as deemed necessary by the local boards of education.

(2) All local boards of education shall require a medical examination of each school bus driver in accordance with the requirements of the *State Board for Elementary and Secondary Education's* [State Board of Education] regulations pertaining to pupil transportation[,] upon initial employment and each year thereafter. The medical examination shall include test for tuberculosis, hearing and vision disorders, emotional instability, and for serious medical diseases including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. [(]All medical examinations of the school bus drivers shall be reported on the special form approved by the State Department of Education.[)]

(a) All positive reactors to the tuberculin skin test shall obtain an immediate chest x-ray for evidence of tuberculosis, followed by the currently acceptable treatment for tuberculosis infection or disease. No further tuberculin skin test or x-rays for tuberculosis shall be required following completion of treatment, unless symptoms occur.

(b) A yearly chest x-ray shall be required if the above recommended preventive treatment for infection is not completed.

(3) All local boards of education shall require a medical examination of each custodian, cafeteria worker, and other school employees upon initial employment which shall include a tuberculin skin test. All positive reactors shall obtain *an immediate* [a] chest x-ray for evidence of tuberculosis[.] *,followed by the currently acceptable treatment for tuberculosis infection or disease. No further tuberculin skin test or x-rays for tuberculosis shall be required following completion of treatment, unless symptoms occur.*

(a) A yearly chest x-ray shall be required if the above recommended preventive treatment for infection is not completed.

(b) Local school authorities shall require each year thereafter a repeat tuberculin skin test for all tuberculin nonreactors, *with the above procedure followed when a custodian, cafeteria worker, and other school employee becomes a tuberculin reactor.* [and chest x-ray for all positive reactors followed by the currently acceptable treatment for tuberculosis infection or disease.] Additional tests and examinations may be required as deemed necessary by the local boards of education.

Section 2. All local boards of education shall require a medical examination *including tuberculin skin test* of each child within a period of six (6) months prior to, or one (1) month following his*/her* initial admission to school regardless of grade. All local boards of education shall have an approved program of continuous health supervision for all school enrollees; such supervision shall include scheduled screening tests for [tuberculois,] vision, hearing and dental[:] *problems. The frequency of repeated tuberculin skin tests depends on the risk of exposure of the child and prevalence of tuberculosis in the community; however, at a minimum, repeat tuberculin skin tests shall be performed on all sixth grade students.*

(1) An effective mechanism for referral and appropriate follow-up of any apparent abnormality noted by screening examination or teacher observation shall be recorded on school health records within nine (9) weeks of screening program or detection of abnormality.

(2) Each school shall *have* [develop] emergency care procedures [to take care of accidents and sudden illnesses occurring in the school]. The emergency care procedures shall include first aid facilities, personnel with first aid training, parents' telephone number, name of family physician, and means of transportation [when necessary].

(3) Local boards of education shall require all vaccinations and immunizations as required by law or regulations:

(a) Except as otherwise provided by law, all children shall be required to present a valid immunization certificate upon enrollment in school, and a valid up-to-date immunization certificate shall be on file for all children at all times. The governing body of private and public schools shall enforce the provisions of this subsection in accordance with the established laws.

(b) Children transferring into any school district shall comply with the above requirements.

Section 3. (1) Each elementary and secondary school shall initiate a cumulative health record for each pupil entering school. Such record shall be maintained throughout the pupil's attendance. Such record shall be uniform and shall be on forms prescribed by the Superintendent of Public Instruction. Such record shall include health data of the pupil including screening test, teacher observation, and physician's and dentist's recommendations. A follow-up by the proper health or school authorities shall be made on each defect noted and the result recorded.

(2) Local school authorities shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. All boards of education shall, in relation to each school under its jurisdiction, provide and maintain a physical environment that is conducive to the health and safety of school children. It shall be the responsibility of all local boards of education to comply with current laws and regulations applicable to all public buildings pertinent to health, sanitation, and safety. In accordance with current regulations and standards *by authorities having jurisdiction,* it shall be the responsibility of all local boards of education to *establish* [provide]:

(1) An adequate supply of water of safe, potable, sanitary quality.

(2) A sanitary disposal of sewage, other water carried waste, and solid waste.

(3) Adequate toilet and lavatory facilities and other sanitary fixtures [according to the State Plumbing Code].

(4) Adequate heating, lighting, and ventilation in all school buildings.

(5) Adequate facilities and equipment for cafeterias and lunchrooms [as required by the State Food Service Code].

(6) Supervision of general sanitation and safety of the school buildings, grounds, and playground equipment.

(7) Adequate first aid facilities.

(8) Adequate control of air pollutants [as required by the Department for Natural Resources and Environmental Protection, Division of Air Pollution].

Section 5. Each board of education, based on needs, shall designate a person to serve as school health coordinator. Such person shall meet the minimum qualifications required of this position. The school health coordinator shall work in cooperation with *all school personnel,* [the director of pupil personnel,] *the local board of education,* [other local school officials,] [the Bureau of Pupil Personnel Services in] the State Department of Education, and the local health department in planning, promoting, and implementing a school health services program that meets the *regulations* [requirements of the school health code] adopted by the State Board *for Elementary and Secondary Education* [of Education].

Section 6. Each *local board of education* [school district] shall require a medical examination *of each child as a prerequisite for eligibility in inter-scholastic athletics. A local board of education may require such examination to be paid by the parent of the child.* [for each child that engages in a strenuous, athletic, physical activity at the beginning of each school year in which he or she participates or more often if deemed necessary due to illness or injury.]

Section 7. Each *local board of education* [school district] shall require its curriculum to include health instruction, stressing timely and local health problems such as alcoholism, drug abuse, personal hygiene, accident prevention, family living, *sex education,* environmental health, nutrition, venereal disease, and consumer health.

JAMES B. GRAHAM
Superintendent of Public Instruction
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EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 5:010. Private programs.

RELATES TO: KRS 158.300, 158.310, 158.320, 158.330, 158.340, 158.350
PURSUANT TO: KRS 13.082, 156.070, 156.160[, 156.130]
NECESSITY AND FUNCTION: KRS 158.300(1) states: "'Kindergarten-Nursery School' means any private kindergarten or nursery school which provides educational experiences for four (4) or more children, between the ages of three (3) and six (6) years, in return for tuition, fees or other forms of compensation; provided, that the kindergarten or nursery school shall not include any public, private school or college operating under the accreditation program of the State Department of Education."

Section 1. (1) Permits shall be of two (2) kinds, regular and provisional. A regular permit shall be issued when the school has met all requirements provided for by the regulations of the State Board of Education and the law. A provisional permit shall be issued when the school does not meet the requirements provided for by the regulations of the State Board of Education and the law for a regular permit, but shows intention of meeting the full requirements within a three (3) year period.

(2) The permit shall be posted in a conspicuous place in the school.

(3) A regular or provisional permit shall be issued when a completed application, accompanied by a fee of thirty-five dollars ($35), has been approved. Permits shall be subject to renewal annually on payment of a ten-dollar ($10) fee. When a school holding a provisional permit fails to meet the requirements for a regular permit, the Superintendent of Public Instruction, at his discretion, may continue to reissue provisional permits for a reasonable length of time beyond the three (3) year period stated above.

Section 2. (1) The educational qualifications of the instructional staff are an indication of the quality of the educational program.

(2) For a regular permit at least one (1) member of the instructional staff shall hold a baccalaureate degree in elementary education from a recognized college or university. All other staff members shall be graduates of an accredited high school and prepared to take in-service training.

(3) For a provisional permit one (1) or more instructional staff members shall have a minimum of two (2) years of college training (sixty (60) semester hours) in elementary education. Recommended courses include: Child development, methods course in pre-primary teaching, children's literature, science, music, plays and games, and arts and crafts. All other staff members shall be graduates of an accredited high school and prepared to take in-service training.

(4) All adult personnel shall file with the annual report to the State Department of Education a certificate from a qualified physician indicating their physical health, including freedom from tuberculosis as ascertained by physical and chest x-ray examinations. This regulation shall apply to all members of a household, if the school is maintained in a private residence. These records shall be open for inspection at all times.

Section 3. (1) The child-instructional staff ratio shall be as follows:

Age 3:	10 children	1 adult
	11-15 children	1 adult and 1 full-time assistant
Age 4:	15 children	1 adult
	16-25 children	1 adult and 1 full-time assistant
Age 5:	20 children	1 adult
	21-35 children	1 adult and 1 full-time assistant

(2) Children shall never be left without one (1) adult in attendance and the availability of a second person.

Section 4. If the school provides transportation, insurance comparable to the local public school district's transportation insurance coverage shall be carried.

Section 5. (1) The program shall provide opportunities and experiences in accordance with each child's level of comprehension and rate of growth.

(2) The program shall include desirable experiences in:
(a) Social living;
(b) Physical development;
(c) Emotional growth and stability;
(d) Literature, language, science, music and art;
(e) Creative activities.
(3) A good program shall be informal and flexible with a suitable balance between quiet and active periods. This type program requires careful daily planning if the individual needs and interests of each child are to be met. A record of each child's needs and interests will be beneficial to the instructor in her daily planning.

Section 6. The kindergarten facility shall not only provide for the health, safety, and comfort of children and staff but enhance the educational program as well:
(1) No school shall be operated above the second story. Basement quarters shall be permitted only after authorization of the State Department of Education.
(2) There shall be at least thirty-five (35) square feet of space in the classroom for each child enrolled.
(3) There shall be facilities with hooks or a bar at a height to allow children to handle their wraps independently.
(4) All stairs shall have good hand rails at the right height for the age children who will use them. Second floor stairs in schools used by three (3), and four (4) year old children shall be guarded by gates which are kept closed when stairways are not in use.
(5) There shall be open shelving in the playrooms to hold blocks, toys, and other materials children should reach for themselves. All of this shelving shall be low. Space shall be left near this shelving for block building and the use of floor toys.
(6) There shall be closed storage space for extra consumable materials and other equipment not in use.
(7) Bulletin boards shall be placed low enough for children to see their work displayed there.
(8) All exits shall open outward and safety locks shall be placed on any doors leading to the street.
(9) Every school shall be equipped with fire extinguishers with a separate carbon dioxide extinguisher or its equivalent for each kitchen maintained. All staff members shall be trained in the use of fire extinguishers.
(10) All gas heaters shall be vented.
(11) There shall be at least sixty (60) square feet of yard space per child enrolled.
(12) The yard surface shall be well drained with grassy and asphalted areas, shady and sunny spaces.
(13) The yard shall be completely fenced or otherwise protected when hazardous conditions exist to insure the safety of the children.
(14) All kindergarten/nursery schools shall be in compliance with the regulations of the Division of Buildings and Grounds, State Department of Education, pertaining to public school kindergarten facilities, as well as the regulations of the office of the State Fire Marshal.
(15) A certificate or statement of approval from the State Fire Marshal's Office shall be kept on file at the school.

Section 7. The health of young children is of extreme importance and every effort shall be made to [insure good health standards are being maintained] *include the following:*
(1) Heating shall be of a type that would *maintain* [keep floor warm and thel room temperatures at sixty-eight (68) to seventy-two (72) degrees and guarded so that children cannot be burned by hot apparatus.
(2) There shall be warm water available at all times.
(3) A drinking fountain or water from individually dispensed paper cups shall be made easily accessible to classroom, playroom or yard.
(4) Refrigeration shall be provided where children are served milk or juice as mid-morning and/or mid-afternoon refreshments.
(5) All first-aid materials shall be kept beyond the reach of children.
(6) Toilet and wash basin facilities shall be provided and toilet tissue, soap, and paper towels shall be available at all times.
(7) All children shall have the same recommended immunizations as those required for enrollment in first grade.
(8) For each thirty (30) children enrolled, there shall be at least fifty (50) square feet in a separate room or a partitioned-off space for isolating a child who is ill.
(9) All kindergarten/nursery schools shall be in compliance with the regulations of the Bureau for Health Services of the Department for Human Resources that pertain to public school kindergartens.
(10) Sanitation shall meet the regulations established by the Bureau for Health Services of the Department for Human Resources.

Section 8. Even though a kindergarten room is well equipped and contains an abundant supply of materials, this is no guarantee that there will be an effective program. The teacher must know how to use the equipment and supplies effectively and what takes place in a kindergarten room is limited only by the imagination of the teacher:
(1) All furniture shall be child size, sturdy and washable.
(2) There shall be a piano and/or record player for each school.
(3) The housekeeping area shall be set up to include equipment such as: doll bed, dolls, tea table and chairs, dishes, stove, cooking utensils, telephone, broom, dust pan and mop. This type equipment shall be scaled to the size of the children.
(4) Wooden unit blocks of various shapes and sizes with shelving for storage, large hollow blocks and ramps, and walking boards shall be provided.
(5) The library area shall be provided with a table and chairs, book trolley or shelves and from five (5) to ten (10) well-selected books per child.
(6) Manipulative equipment, consisting of such items as blocks, puzzles, clay, scissors, trains, trucks, boats, airplanes, cars, animals, and people is essential and shall be provided each kindergarten room.
(7) Consumable materials in ample supply shall be available in each kindergarten room and shall include such things as newsprint paper, powder paints, brushes, crayons, paste, and construction paper.
(8) Some type of easel shall be provided all children in the three (3) to five (5) age range.
(9) Outdoor equipment contributing to good physical development shall include some of the following or similar items: slide, jungle-gym, or other climbing apparatus, sand pit or box, rail fences or saw horses, walking boards or planks, packing boxes, hollow blocks, balls, and wheel toys such as tricycles, wagons, kiddie cars, or scooters.

Section 9. This regulation shall in no way limit or

modify the authority of other regulatory agencies for enforcement of their rules and regulations.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: April 26, 1979
RECEIVED BY LRC: May 22, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 5:050. Public school programs.

RELATES TO: KRS 157.312, 157.315, 157.360, 158.070, 158.090, 158.300
PURSUANT TO: KRS 13.082, 156.070, [156.130,] 156.160
NECESSITY AND FUNCTION: KRS 157.315 requires the State Board for Elementary and Secondary Education to adopt regulations defining and prescribing the criteria for kindergartens in the common schools and the eligibility requirements of pupils to attend these classes.

Section 1. Personnel qualified to serve in an approved unit for kindergarten shall hold Kentucky teacher certification as follows:
(1) A Kentucky certificate endorsement for kindergarten teaching; or
(2) A Kentucky certificate valid for kindergarten teaching; or
(3) A Kentucky certificate valid for elementary classroom teaching initially issued prior to September 1, 1971.

Section 2. *(1)* State funding for a public school kindergarten unit shall be allocated for each fifty (50) kindergarten children enrolled in a school district. A fractional portion of a unit will be awarded on the ratio of one (1) unit to fifty (50) children enrolled.
(2) If the total kindergarten units appropriated in the state biennium budget bill are not allocated based on the enrollment requirement, the Superintendent of Public Instruction shall make a percentage reduction in the enrollment requirement in order to allot the total units appropriated.

Section 3. Scheduling for a kindergarten unit shall meet one (1) of the following plans:
(1) Conduct half-day session(s) for the school year.
(2) Conduct all day session(s) for the first semester. Conduct all day session(s) for the second semester. The second semester enrollment shall be children that have not previously enrolled in a kindergarten session in the district.
(3) Conduct alternate day session(s) all year.
(4) A school district desiring to implement a plan other than those listed in Section 3 (1) (2) and (3) shall submit a request for approval of such plan to the Assistant Superintendent for the Bureau of Instruction prior to implementing such plan.

Section 4. *(1) Any child who is five (5) years of age or who may become five (5) years of age by September 1, 1979, and any year thereafter, shall be permitted to enroll in a public school kindergarten.* [A child who is five (5) years of age on or before December 31 following the opening of school may enter kindergarten.]
(2) The parent or legal guardian of any child who becomes five (5) years of age on or before December 31, may petition the State Board for Elementary and Secondary Education to allow the child to be enrolled in kindergarten at the beginning of the school year in which the child becomes five (5).

Section 5. The program shall include desirable experiences in social living, physical development, emotional growth and stability, language arts, science, music, art, and creative activities. The program shall provide opportunities and experiences in accordance with each child's level of comprehension and maturation.

Section 6. The facilities shall be in compliance with the regulations of the Department of Education's Division of Buildings and Grounds.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: April 26, 1979
RECEIVED BY LRC: May 22, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department for Occupational Education
Bureau of Vocational Education
(Proposed Amendment)

705 KAR 7:050. Adult plan.

RELATES TO: KRS *163.020, 163.030* [156.035, 156.116]
PURSUANT TO: KRS 13.082, *156.112*
NECESSITY AND FUNCTION: *A Three Year* [An annual] program plan for adult education is required in order to be eligible to receive federal funds under the Adult Education Act.

Section 1. Pursuant to the authority vested in the Kentucky State Board for Occupational Education, the Kentucky Annual Program Plan for Adult Education shall be prepared and approved by the State Board for Occupational Education, in accordance with the appropriate federal regulations and guidelines, and submitted annually to the U. S. Commissioner of Education by June 30 for his approval. This document is incorporated by reference amd hereinafter shall be referred to as the *Three Year* [Annual] Program Plan for the years July 1, 1979 [8] to June 30,

1982 [79]. Copies of the *Three Year* [Annual] Program Plan may be obtained from the Adult Education Unit, State Department of Education.

JAMES B. GRAHAM
Superintendent of Public Instruction

ADOPTED: June 5, 1979
RECEIVED BY LRC: June 8, 1979 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, State Board for Occupational Education, 17th Floor, Capital Plaza Office Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Workmen's Compensation Board
(Proposed Amendment)

803 KAR 25:010. Procedure.

RELATES TO: KRS Chapter 342
PURSUANT TO: KRS 13.082, 342.260
NECESSITY AND FUNCTION: KRS 342.260 requires the Workmen's Compensation Board to prepare such rules and regulations as it considers necessary to carry on its work and for carrying out the provisions of KRS Chpater 342. The function of these rules and regulations is the regulating of practice and procedure before the Workmen's Compensation Board.

Section 1. Definitions. (1) "Board" means the Workmen's Compensation Board.

(2) "Director" means the director appointed pursuant to KRS 342.230(2), acting director or assistant director.

(3) "Hearing officer" means a hearing officer appointed pursuant to KRS 342.230(3), and also includes the director, assistant director, an attorney employed by the board, a board member of any enforcement officer employed by the board, when acting under Section 6.

(4) The masculine gender includes the feminine and the neuter, and the singular member includes the plural.

(5) "Employer" shall mean and include individuals, partnerships, voluntary associations and corporations.

(6) "Corporate surety" shall mean a corporation dule authorized, licensed and qualified to execute bonds and other surety obligations for compensation in Kentucky.

(7) The date of filing is the date the pleading, motion or other document is received by the board at its office at Frankfort, Kentucky.

(8) "An employer who has not secured payment of compensation" means an employer, or any person who is liable for payment of compensation, who has not complied with KRS 342.340 by either insuring and keeping insured his liability for compensation in some corporation, association or organization authorized to transact the business of workmen's compensation insurance in this state or furnished to the board, in accordance with the statutes or rules and regulations of the board, satisfactory proof of his financial ability to pay directly the compensation in the amount and manner due as provided for in KRS Chapter 342. Said terms shall not include those employers whose employees are exempt from coverage by KRS 342.650, unless said employer of an exempt employee has voluntarily elected to be subject to KRS Chapter 342, in accordance with KRS 342.650, and has not revoked said election. Said term also shall not include any employer whose employee is injured and who has rejected acceptance of the provisions of KRS Chapter 342, as provided for by KRS 342.395.

Section 2. Parties. (1) The parties to any original proceedings before the board shall be designated as "plaintiff" and "defendant." The party filing the original application for relief in such proceedings shall be designated as the plaintiff and the adverse party as the defendant.

(2) All parties shall join as plaintiffs in whom any right to any relief, arising out of the same transaction or occurrence, is alleged to exist. If any such person should refuse to join as a plaintiff, he shall then be joined as a defendant, and the fact of his refusal to join as a plaintiff must be pleaded.

(3) All persons shall be joined as defendants against whom the ultimate right to any relief may exist, whether jointly, severally, or in the alternative. The board at any time, upon a proper showing, may order that any additional party be joined when it deems the presence of such party necessary. [The failure to timely join as defendants, including the uninsured employers' fund, any party against whom any ultimate right to any relief which is alleged or could be alleged to exist, shall be considered as a waiver of the right to later proceed against said party and a bar to any relief therefrom.]

Section 3. Pleadings. (1) All applications for adjustment of claims for compensation, answers, and other pleadings must be typewritten and the printed forms prescribed by the board must be used whenever applicable. All such forms will be furnished by the director to any person requesting same, without charge.

(2) The original application for adjustment of claim (Form 11) shall be fully completed, filed in triplicate, and need not be served by the party filing same. Any claim (Form 11) not fully completed shall be returned to the claimant or his attorney.

(3) Should the plaintiff be required to file two (2) medical reports pursuant to KRS 342.316(2)(b) the reports shall be made part of the record without the necessity of deposition if:

(a) They are comprehensive and conform with generally accepted diagnostic standards in the medical community, and

(b) They meet the mandate of KRS 342.316(2)(b)1. Any party may, however, depose either physician whose report has been tendered for compliance with KRS 342.316(2)(b)1.

(4) [(3)] All pleadings filed subsequent to the original application shall have appended thereto the certificate of the attorney filing same (or of the party, if the party is not represented by an attorney) stating the date and manner of service of a copy thereof upon the opposing party, which service shall be made in one of the manners provided by Rule 5 of the Rules of Civil Procedure.

(5) [(4)] The defendant may file an answer to the plaintiff's application at least five (5) days before the date set for the hearing on the application, but no such answer is required and if none is filed all of the allegations of the application will be deemed to be traversed. If, however, an answer is filed, (other than a special answer under subsection (5) of this section) only those allegations of the application which are specifically denied by the answer shall be considered as traversed.

(6) [(5)] If the defendant relies upon an affirmative special defense, he shall set forth such defense in a special

answer to be filed at least five (5) days before the date set for hearing or within ten (10) days after such defense is discovered or could have been discovered in the exercise of reasonable diligence. If, in the exercise of reasonable diligence, such defense could not have been discovered until the introduction of proof, such plea must be filed to conform with the proof within ten (10) days after its introduction.

(7) [(6)] Upon any motion being filed by a party, the party filing same may file a short memorandum in support thereof and the adverse party may file a short memorandum in reply thereto. No further memorandum in support of motions may be filed.

Section 4. Motions. (1) Every application for an order of the board shall be by typewritten motion, served and filed in the manner prescribed by Section 3(3), and shall have annexed thereto the certificate prescribed by said section.

(2) Every motion for the allowance of an attorney's fee shall (in addition to service upon the adverse party) also be served upon said attorney's client and the fact of such service certified in the manner prescribed by this section. Every motion for attorney's fee shall set forth the percentage and the amount of money requested and shall be accompanied by an affidavit of the attorney setting forth in detail the services rendered and the amount of time expended.

(3) Every motion, the grounds of which depend upon the existence of one or more facts not appearing in evidence at the time of the filing of the motion, shall be supported by an affidavit or affidavits evidenicng such fact or facts, which shall be served and filed with the motion. Controverting affidavits may likewise be served and filed by the opposing party.

(4) Every motion, the grounds of which depend upon the existence of one or more facts which the movant contends are shown in evidence or are admitted by the pleading of the adverse party, shall contain a reference to the hearing transcript of deposition containing such evidence and to the page thereof, or the pleading containing such admission.

(5) No motion will be considered at any meeting of the board unless same has been served and filed at least five (5) days prior to the date of such meeting, to which three (3) days shall be added to the service when service has been made by mail. A response to such motion will be considered if served and filed at any time prior to the day of such meeting.

Section 5. Board Meetings. Regular meetings of the board will be held weekly each Monday at the offices of the board at Frankfort, unless otherwise ordered by the board. Special meetings will be held, when necessary, upon the call of the chairman of the board, at such times and places as said chairman may designate.

Section 6. Hearings. (1) Hearings of workmen's compensation cases shall be conducted by a hearing officer as defined in Section 1(3). Each hearing shall be conducted in the county where the alleged accident or exposure to occupational disease occurred. A hearing may be held in another county only by agreement of the parties and upon authorization by the board.

(2) Each case shall stand for hearing as soon as practicable after the plaintiff's application is filed. *Promptly following the hearing, the hearing officer conducting the same shall transmit to the board a field order reciting the appearances on behalf of the parties and the general nature of the proceedings conducted. The order shall provide that any party may offer proof by deposition during the sixty (60) days following the date of the hearing; that the defendants shall have thirty (30) days thereafter within which to offer additional evidence; and that the plaintiffs shall have fifteen (15) days thereafter for the introduction of rebuttal evidence. A copy of such order shall be mailed to counsel for each party and to each party who is not represented by counsel. The field order shall be filed with the board's case record, but shall not be entered upon its order book.* [At the hearing the plaintiff shall complete his proof as far as possible but shall, upon request, be granted not more than thirty (30) days thereafter in which to conclude proof in chief by depositions, at the expiration of which time plaintiff's taking of proof will stand closed whether so announced or not. The defendant shall complete his case at the initial hearing before the hearing officer as far as possible, but shall upon request, be granted not more than thirty (30) days after the thirty (30) day period allowed plaintiff in which to conclude his case by depositions. The plaintiff shall have five (5) days, following the conclusion of defendant's proof, in which to take depositions in rebuttal.] When a party has been joined as plaintiff or defendant after the expiration of the time alloted for taking proof under the terms of this subsection upon motion the board may allow such party time for the taking of his proof or may direct further hearing before a hearing officer. Except by agreement, no medical deposition may be taken until the case has been heard by a hearing officer unless prior approval has been granted by the board.

(3) At all hearings evidence may be introduced by oral testimony or by deposition as provided by Section 10. Unless otherwise ordered by the board or by the hearing officer conducting the hearing, the plaintiff shall complete his testimony in chief before the defendant is required to introduce testimony. The board will provide an official reporter who will stenographically report and thereafter transcribe upon the typewriter the evidence and proceedings at each hearing without cost to the parties except for any copies thereof which may be ordered by them.

(4) Rulings made by a hearing officer pursuant to KRS 342.230(3) may be reviewed by the board upon written application made by any party prior to final submission of the case, which application shall be served and filed in the manner provided by Section 4 for the service and filing of motions.

(5) Unless otherwise ordered by the board for good cause, the proof introduced at each hearing may relate to all issues in the case, and preliminary hearings upon issues such as limitations or jurisdiction will not be held without a board order.

(6) At the hearing all parties shall represent to each other that they have exchanged all medical reports pertaining to the injury or disease and that they shall furnish additional medical reports as they are received. Additionally, a party shall promptly obtain all medical reports he intends to use and shall not intentionally cause delay in the providing of same to the other parties.

(7) The plaintiff shall also execute an authorization for any party to inspect and obtain all hospital records which shall be valid for 180 days. Any records so obtained shall be made available promptly to all parties for review and copying.

(8) [(6)] Promptly following each hearing, the hearing officer conducting same shall transmit to the board a field order reciting the appearances on behalf of the parties, the general nature of the proceedings had at the hearing, and the time given by him to each party for completion by

deposition, and shall mail a copy thereof to counsel for each party and to each party who is not represented by counsel. The field order shall be filed with the board's case record but will not be entered upon its order book.

Section 7. Stipulation of Facts and Judicial Notice. (1) Stipulation of facts which are not in issue is mandatory and the refusal without good cause to stipulate facts which are not in issue, within the sound discretion of the board, may result in assessment of the costs of the hearing before the hearing officer against the party who without good cause has refused to stipulate to routine matters not in issue (See KRS 342.310). The assertion of the fact that any party has not had an opportunity to consult with the party whom he represents or has not had sufficient time or opportunity to ascertain the facts will not be necessarily considered "good cause" within the meaning of this rule. Every party to a stipulation shall be considered bound to the same, however, for good cause shown, any party may be relieved of a stipulation he makes provided such motion is filed with the board prior to the time the case is submitted for opinion and judgment, and the board shall grant additional time for the opposing party or parties to complete their proof so as to prevent prejudice or surprise.

(2) The board will take judicial notice that the Act is mandatory except for those employers exempted by KRS 342.650 and those employees rejecting the Act pursuant to KRS 342.395 and 342.400.

(3) Upon the filing of a claim the director shall ascertain whether the employer, or any other person against whom a claim is filed and who is not exempt by KRS 342.650, has secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Should the employee or any other person against whom a claim is filed not have insurance coverage or qualify as a self-insurer, the director within twenty (20) days after the filing of the claim shall notify the parties and the uninsured employer's fund that the defendant or any other person against whom a claim has been filed has failed to secure payment or compensation as provided by KRS Chapter 342.

(4) The hearing officer shall ask the appropriate questions in order to determine the reason for an inability or unwillingness to stipulate. The employer and the plaintiff have the joint responsibility of resolving jurisdictional and pre-hearing payment of compensation issues and explaining why these cannot be stipulated.

Section 8. Evidence: Rules Applicable. (1) The same rules of evidence that apply in judicial proceedings and that are governed by the common law and the statutes in effect in this commonwealth, apply in all hearings and depositions taken to be used in cases before this board.

(2) An exception to the above rule applies in depositions taken of evaluating physicians who are non-treating physicians, and in those instances the non-treating physician is permitted to use the case history related to him by the patient and the subjective symptomatology related to him by the patient in arriving at and formulating his opinion as to causation and disability.

Section 9. Informal Conferences. At any time before hearing, the board upon its own motion or upon motion of either party, may direct the holding of an informal conference as provided by KRS 342.270(3) in an attempt to assist the parties to adjust their differences, but will not delay the granting of a hearing, over the objection of either party, for such purpose. Such informal conference shall be held at the board's offices in Frankfort or at any other place designated by the board.

Section 10. Depositions and Discovery. The parties may tak depositions and obtain discovery in accordance with the provisions of Rules 26 to 37, inclusive, of the Rules of Civil Procedure, except Rules 27, 33, and 36, which are not adopted by the board and which shall not apply to practice before the board.

Section 11. Exceptions. Formal exceptions to rulings or orders of the board or any member or hearing officer thereof are unnecessary.

Section 12. Appearance. Only duly licensed attorneys-at-law may appear or practice before the board, except that any natural person who is a party to any preceeding may represent himself only but shall not, either directly or indirectly, represent or appear in behalf of any legal entity other than himself. Any party who elects to represent himself without the aid of counsel shall be held accountable in the same manner, and to the same degree, as qualified counsel.

Section 13. Failure to Appear. (1) Where the plaintiff fails to appear at the hearing of his case and no good cause is shown for his failure to appear, the board may order the case dismissed for lack of prosecution; such dismissal shall be without prejudice.

(2) Where the defendant fails to appear at the hearing of a case and no good cause is shown for his failure to appear, the hearing officer may proceed with the hearing of the case.

Section 14. Continuances, Extensions and Motions to Hold in Abeyance.

(1) Continuances of hearings, whether a request of the board or of the hearing officer, and extensions of time will be granted for good cause, [and] upon motion, supported by affidavit stating facts making a proper showing of such cause, and upon due notice to the adverse parties. [Continuances or extensions merely by consent or agreement will not be granted. The existance of, or the necessity of attending to, other business on the part of counsel will not be considered "good cause" within the meaning of this regulation.]

(2) Extensions of time for introduction of evidence following the hearing shall not be granted except as hereafter provided and except upon a good cause showing of extraordinary circumstances preventing the party moving for extension from obtaining such evidence. The motion for extension of time and supporting affidavit must clearly set forth the following matters:

(a) A showing of timely and diligent efforts by counsel to secure such evidence must be detailed.

(b) The facts which prevent taking of the needed evidence must be detailed.

(c) The date of availability of such needed evidence and the probability of its production must be detailed.

(d) Where possible, supporting documentation giving rise to the need for extension should be filed with such motion.

(e) Where the parties shall agree, one (1) thirty (30) day extension or a lesser period of extension shall be allowed without order of the board by the filing of a joint stipulation, in form as follows:

John Doe *Plaintiff*

vs. *STIPULATION GRANTING 30 DAY EXTENSION TO PLAINTIFF*

Ajax Corporation *Defendant*

Plaintiff is granted 30 additional days to complete evidence in chief to expire at the close of January 16, 1978.

Attorney for Plaintiff

Attorney for Defendant

(Attach Certificate of Service)

(f) Upon filing of such stipulation, the extension will be allowed without order of the board, and the next succeeding allotment of time shall begin to run after the expiration of the time so extended.

(g) In the absence of unusual circumstances, which will make an additional extension necessary, only one (1) thirty (30) day extension shall be granted to each side for completion of evidence in chief and only one (1) fifteen (15) day extension may be granted to plaintiff for completion of evidence in rebuttal. No other allotment of time shall be granted.

[(2) Upon motion, a notice in conformity with this regulation, the director is authorized to enter orders granting two (2) extensions of fifteen (15) days to each party without the approval of the board.]

(3) The granting of an extension of time for completion of proof or for an enlargement of time in order to file a brief shall enlarge the time to all parties plaintiff should extension be granted to a plaintiff, or to all parties defendant should extension be granted to a defendant.

(4) [(3)] The provisions of this section shall apply to motions or applications requesting that proceedings in a case shall be held in abeyance pending settlement or for any other reason.

Section 15. Briefs. (1) The plaintiff may file a brief on the merits of the case within fifteen (15) days after the submission of the case as provided by Section 16. The defendant may file a brief in opposition thereto within fifteen (15) days after the filing of plaintiff's brief or within the like period, after the expiration of plaintiff's briefing time, whichever shall first occur. Plaintiff may file a reply brief within five (5) days after the filing of defendant's brief. No other or further briefs shall be filed, unless otherwise ordered by the board.

(2) One (1) copy of all briefs shall be filed. Every brief shall be served and the fact of such service certified in the manner provided by Section 4(3).

(3) It is the declared policy of the board not to consider extraneous matter placed in the briefs, nor to consider statements in briefs that are an exaggeration or overstatement of the law or evidence, and it is grounds to strike the brief when such matter appears therein.

(4) In briefs counsel shall state the case fairly and accurately setting out the stipulations and make a concise, accurate statement of the facts, make an argument exhibiting a clear statement of the issues and containing applicable citations of authority to support all positions.

Section 16. Submission and Decision of Cases. (1) Each case shall stand submitted at the first regular meeting of the board following the expiration of the time allowed for the taking of all proof.

(2) No deposition will be considered unless it has been filed with the board within ten (10) days after submission of the case; but upon motion and for good cause shown within said period the board may grant an extension of time for such filing.

(3) All cases will be decided by the full board. Every decision upon the merits shall contain findings of fact and rulings of law as required by KRS 342.275; but formal opinions will be delivered only in those cases in which the legal questions are novel or important, or the facts are to complicated as to require detailed analysis.

(4) Every final order or award of the board has the effect of overruling all pending motions or objections not otherwise specifically disposed of by such final order.

Section 17. Oral Argument. The board upon motion may permit oral argument of cases in which novel or important legal questions are presented or the factual situation is complicated. No such motion shall be made until all briefs have been filed.

Section 18. Petitions for Reconsideration. One (1) copy of each petition for reconsideration of a final order, award or decision, and one (1) copy of each response to such petition, shall be filed.

Section 19. Subsequent Proceedings. Every application for reopening or review of any order or award of the board pursuant to KRS 342.125, and every application pursuant to KRS 342.730(4), shall be in writing, shall be verified or supported by affidavit as required by Section 4(3), shall be styled with the names of the original parties, plaintiff and defendant, as in the proceedings in which the order or award was made, or as substituted parties, shall bear the number of the original proceedings and shall be filed in triplicate.

Section 20. Withdrawal of Records. No paper, exhibit, or other portion of any original record of the board shall be withdrawn by any person except on order of the board.

Section 21. Depositions of Physicians Appointed under KRS 342.121.

(1) An examining physician appointed by the board under the provisions of KRS 342.121 shall not be examined by deposition of his report except by permission of the board.

(2) Motions to join the special fund shall include a designation of the area of medical specialty for appointment of the physician designated pursuant to KRS 342.121.

Section 22. Examinations by Disinterested Physicians. When a disinterested physician or surgeon has been appointed by the board pursuant to KRS 342.315, no party shall furnish such physician or surgeon with any copies of reports previously made or depositions given by any physicians or surgeons who have previously rendered by the board in the same cause. Either party may, however, transmit to such physicians or surgeons, through the office of the director, properly identified x-ray photographs by any person. The transmittal shall be accompanied by certification of service upon all parties.

Section 23. Furnishing Medical Reports to Parties. Any party shall furnish, upon request of any other party, a

copy, or copies of the full report of any and all physicians who have examined or treated the employee, or read x-rays in connection with any injuries or disease alleged in a claim filed under the Workmen's Compensation Law. For purposes of this section x-ray readings shall be deemed reports.

Section 24. Payment of Compensation from Uninsured Employers' Fund.

(1) Payment from the uninsured employers' fund of compensation which has been awarded a claimant in the case where the defendant-employer, or any other party liable for the payment thereof, has not secured payment of compensation as provided for by KRS Chapter 342, shall be made only after the claimant, or any other party in interest, has filed in the circuit court of the county where the injury occurred an action pursuant to KRS 342.305 to enforce payment of the award against the defendant-employer, or any other person liable for payment of said action, judgment has been rendered thereon, and there has been default in payment of said judgment by the defendant-employer, or any other party liable for payment thereof, except the uninsured employers' fund.

(2) When the procedure provided in subsection (1) above has been complied with, the claimant may file a motion with the Workmen's Compensation Board together with proof of compliance with the requirement of subsection (1) above, requesting that the Workmen's Compensation Board order payment from the uninsured employers' fund in accordance with KRS 342.760. Upon satisfactory proof of such compliance, the Workmen's Compensation Board shall enter an order directing payment of compenation or any portion thereof from the uninsured employers' fund.

(3) This section shall not be construed as to prohibit the voluntary payment of compensation by an employer, or any other person liable for payment thereof, who has failed to secure payment of compensation as provided for by KRS Chapter 342, the compromise and settlement of a claim or award approved by the board pursuant to KRS 342.265, or the payment of its proportionate share of a claim or award by the Special Fund.

Section 25. Routine Records Admission. Any party may file with the board any routine hospital, Armed Forces and Social Security records. These shall be made part of the record and considered for their statistical content only and any opinion contained therein shall be sticken and not considered. A party may, however, depose the proper agent in the manner as otherwise provided herein in order to have these records admitted as to any opinion contained therein.

JAMES R. YOCOM, Commissioner
GLENN L. SCHILLING, Chairman
Workmen's Compensation Board
ADOPTED: June 12, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 13, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Joe A. Newberg, Assistant Counsel, U.S. Highway 127, 127 Building, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 2:015. Prohibited statements.

RELATES TO: KRS 244.130
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: Under the general authority of KRS 244.130, permitting this department to regulate advertising of alcoholic beverages, this regulation is intended to regulate the type of advertising appearing in newspapers, magazines or periodicals. This is our department's version of a "truth in advertising" regulation, and has been in effect since December 1956. *The 1978 amendments to KRS 244.130 make it necessary to amend this regulation to include radio and television.*

Section 1. Any advertisement of malt beverages shall not contain:

(1) Any statement that is disparaging of a competitor's product.

(2) Any statement, device or representation that is obscene or indecent.

(3) Any statement concerning or illustrations of family scenes pertaining to the home.

(4) Any statement that is false or misleading in any manner.

(5) Any statement concerning the brand of malt beverages that is inconsistent with any statement on the labeling thereof.

(6) Any statement that may intimate or state that drinking of the advertised product produces good health, affects weight, builds muscles or like statements.

(7) Any statement which shall mention the place at which malt beverages are sold at retail. This does not apply to advertising by retailers in newspapers, magazines, [or] periodicals, *radio or television.*

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:030. Transport permit, non-resident licensees.

RELATES TO: KRS 243.030*(20)*, 243.200
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: KRS 243.200 established the requirements for qualification as a transporter of distilled spirits and wine. The primary authorization of this statute extends only to those referred to as "common carriers." This regulation extends the same transportation privilege to non-resident distillers, vintners,

or wholesalers to transport their products purchased in Kentucky to their place of business outside of Kentucky, and to non-resident distillers, vintners or rectifiers to deliver to licensed wholesalers in Kentucky. This regulation is primarily for what would be considered as "company owned trucks" as distinguished from a common carrier. *The fee for the herein licensee was raised from $5.00 to $25.00 by the 1979 Session of the Legislature and now appears in KRS 243.030(20).*

Section 1. (1) The Administrator of the Distilled Spirits Unit of the Department of Alcoholic Beverage Control is hereby empowered and authorized to issue a permit, which shall be designated "Non-Resident Licensee's Permit" to any non-resident distiller, vintner, or wholesaler who is authorized by the state of his residence and also by the federal government to receive and transport distilled spirits and wine.

(2) [The fee for such permit will be five dollars ($5).] No waiting period shall be required, unless in the discretion of the administrator such waiting period is deemed necessary for the purpose of investigating the applicant.

(3) Application for a non-resident licensee's permit shall be made in writing, under oath, on a form furnished by the Department of Alcoholic Beverage Control, and shall set forth in detail such information as the administrator may, after approval by the board, require.

(4) The application must be accompanied by:

(a) Photostatic copies of the applicant's state and federal permits.

(b) A statement that the applicant, if granted a permit, will allow any authorized field representative of the Department of Alcoholic Beverage Control to stop and examine the cargo of any truck or vehicle in which distilled spirits or wine are being transported within the boundaries of the Commonwealth of Kentucky.

(c) A statement specifying the routes over which the applicant expects to haul.

(d) A corporate surety bond in the amount of $2,500 and in such form as the Alcoholic Beverage Control Board may prescribe, such bond to be forfeited to the Commonwealth of Kentucky in the event the permittee violates any of the provisions of this regulation.

Section 2. (1) The following is required of the non-resident licensee after the license has been issued:

(a) The name of the non-resident company, the special non-resident licensee's permit number, and the state and federal permit numbers must be painted on both sides of the vehicle in uniform letters of contrasting color at least two and one-half (2½) inches high.

(b) The driver of the vehicle shall have a photostatic copy of the non-resident licensee's permit from the Kentucky Department of Alcoholic Beverage Control in the vehicle.

(c) All persons holding a Kentucky non-resident licensee's permit are required to file reports (Revenue Form 503T) with the Department of Revenue on or before the 15th of each month, covering the preceeding month's transactions. It is necessary that only one (1) report (Revenue Form 503T) be submitted to cover each unit shipment of alcoholic beverages transported into and from the State of Kentucky. Each Revenue Form 503T must show the state license number, the name and address of consignor and consignee, shipping date, delivery date, number of cases according to size contained in each shipment, and must be signed by an official of the company handling the shipment.

(2) The non-resident licensee's permit shall authorize the holder thereof to transport for himself only, distilled spirits and wine from the licensed premises of a Kentucky manufacturer, distiller, vintner or rectifier to his licensed premises only, and beverages on which the Kentucky tax has been paid may be transported from the licensed premises of a non-resident distiller, vintner or rectifier to wholesaler licensees within the Commonwealth of Kentucky, provided that he so transport such alcoholic beverages in a truck or other vehicle owned and operated by himself, which shall have affixed to its side a sign in uniform letters of at least two and one-half (2½) inches high containing the name of his company, and his state and federal permit numbers.

(3) It is further provided that the permit may be revoked or suspended for any cause which the Alcoholic Beverage Control Board may in its sound discretion deem sufficient. Proceedings relative to revocation or suspension shall be the same as those provided for licensees under the alcoholic beverage law.

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:130. Beer storage.

RELATES TO: KRS 243.040*(7)*
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: In certain instances it is impossible for a retail beer licensee to store, on his own premises, the supply of [cold] beer necessary to operate his premises. This regulation permits a retail beer licensee to apply for an off premises special storage license. [the license; however, being limited to storage in a local cold storage warehouse.] *The fee for the herein license was changed by the 1978 Legislature and now appears in KRS 243.040(7).*

Section 1. (1) The malt beverage administrator is hereby authorized to issue a storage license to applicants who hold a regular retail beer license issued by the Commonwealth of Kentucky; provided the application for such storage license shall accurately describe the location of the storage warehouse to be used by the retailer who is applying for said license.

(2) [The license fee for the special storage license shall be five dollars ($5) per annum, and the fee shall be prorated.] All such licenses shall expire at midnight June 30 of each year.

(3) The holder of a special storage license may store malt beverages in a [local cold storage] warehouse convenient to his regular retail beer licensed premises and to transport such malt beverages as belong to the holder of said license

to and from the [cold storage] warehouse by way of the nearest route to his regular licensed retail beer premises, provided he sells no beer except at his regular beer licensed premises.

(4) A special storage license may be suspended or revoked for any violation of the alcoholic beverage control law or a violation of any of the regulations issued thereunder, or for the violation of any other law which would subject a regular license to a suspension or revocation. Proceedings relative to revocation or suspension shall be the same as those provided for other licenses under the alcoholic beverage control law of Kentucky.

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONLD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:140. Distributor's storage.

RELATES TO: KRS 243.030*(8)*
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: This regulation provides for the issuance of a special storage license to a beer distributor for the purpose of [cold] storage of [keg draft beer only for] malt beverages of any type under an emergency situation as determined by the malt beverage administrator. *The fee for the herein license was changed by the 1978 Legislature and now appears in KRS 243.040(8).*

Section 1. (1) The malt beverage administrator is hereby authorized to issue a storage license to an applicant who holds a regular distributor's beer license issued by the Commonwealth of Kentucky. [for cold storage of keg draft beer only.]

(2) [The license fee for the distributor's storage license shall be five dollars ($5) per annum.] All such licenses shall expire at midnight June 30 of each year.

Section 2. [(1)] The malt beverage administrator is hereby authorized to issue a temporary storage license to an applicant who holds a regular distributor's beer license issued by the Commonwealth of Kentucky for storage of beer in event of emergency. The malt beverage administrator shall have sole discretion to determine the existance of any emergency.

[(2) The license fee for the temporary storage license shall be five dollars ($5).]

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:160. Beer transporter.

RELATES TO: KRS 243.040*(9)*, 243.210
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: KRS 243.210 authorizes the issuance of malt beverage transporter's license only to transporters for hire. This regulation extends the class of persons who can be a transporter to include those licensees who hold a beer wholesaler of distributor's license issued either by the State of Kentucky or by the state into which the malt beverages are to be transported. The license is restricted to the transportation of malt beverages for export only through Kentucky. *The fee for the herein license was changed by the 1978 Legislature and now appears in KRS 243.040(9).*

Section 1. (1) The malt beverage administrator is hereby authorized to issue a special beer transporter's license to an applicant who holds a beer wholesaler or distributor's license issued by the state into which malt beverages are to be transported, or who is licensed by said state to transport such malt beverages.

(2) Applicants for the special beer transporter's license, and their employees, may be exempt from the requirements relative to Kentucky residence contained in KRS 243.100 and 244.090.

(3) The application for a special beer transporter's license shall contain a statement that the applicant, if granted a license, will allow any authorized field representative of the Department of Alcoholic Beverage Control to stop and examine the cargo of any truck or vehicle in which malt beverages are being transported within the boundaries of the Commonwealth of Kentucky.

(4) [The license fee for the special beer transporter's license shall be one dollar ($1) per annum, and the fee shall not be prorated.] All such licenses shall expire at midnight, June 30 of each year.

(5) A special beer transporter's license shall authorize the holder thereof to transport malt beverages for export only, from the licensed premises of a Kentucky brewer or from the warehouse of the licensed Kentucky distributor, or from another state, through Kentucky; provided that he so transports such malt beverages in a truck or other vehicle owned and operated by himself or his employees, which carries in the cab thereof the Kentucky special beer transporter's license or a photostatic copy thereof and which shall have affixed to each side a sign in uniform letters at least two and one-half (2½) inches high, containing the name of the owner, state of issuance, and kind and number of his state license. The name of the state and the type of license may be abbreviated.

(6) A special beer transporter's license may be suspended or revoked for any cause which the Alcoholic Beverage Control Board may in its sound discretion deem sufficient. Proceedings relative to revocation or suspension shall be the same as those provided for other licenses under the alcoholic beverage control act of Kentucky.

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:170. Through transporters.

RELATES TO: KRS 243.030*(21)*, 243.200
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: KRS 243.200, transporters license for distilled spirits and wine, limits such license to a common carrier or railway express company. This regulation expands persons eligible for such a license to include any person wishing to transport distilled spirits and wine through the State of Kentucky and over Kentucky highways. This allows company owned trucks of vintners or distillers to transport distilled spirits and wine through the State of Kentucky. *The fee for the herein license was changed by the 1978 Legislature and now appears in KRS 243.030(21).*

Section 1. (1) Persons wishing to transport distilled spirits and wine through the State of Kentucky over the highways must apply for and receive from the Department of Alcoholic Beverage Control a "through transporter's license" which license will allow the holder, for the period of said license, to so transport. Failure to hold such a license will subject transporter to the penalties prescribed in KRS Chapters 243 and 244.

(2) Application for a "through transporter's license" shall be made to the Department of Alcoholic Beverage Control, under oath, on a form furnished by that department, and shall set forth in detail the same kind of information required of applicants for a transporter's license, and such additional information as the department may require in order to render effective the requirements of this regulation. Application for a "through transporter's license" must be accompanied by:

(a) A statement of the route which transporter wishes to be licensed to use.

(b) Photostatic copies of the applicant's state and federal permits (or evidence that the applicant is a common carrier under regulations prescribed by the Interstate Commerce Commission).

(c) A statement that the applicant, if granted a license, will allow any authorized representative of the Department of Alcoholic Beverage Control, the Department of Revenue, or Kentucky State Police, to stop and examine the cargo of any truck or vehicle in which distilled spirits or wine is being transported within the boundaries of the Commonwealth of Kentucky.

(3) [The fee for such license will be one dollar ($1).] Immediately on approval, the license herein prescribed may be issued.

Section 2. (1) The driver of a vehicle so transporting must be in the possession of:

(a) Bills of lading, consignment, or other evidence of ownership of the cargo which tally with the cargo.

(b) A copy of the license.

(2) Failure of the driver to be in possession thereof shall be prima facie evidence of illegal trafficking.

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:180. Freight forwarders.

RELATES TO: KRS 234.030*(22)*, 243.200
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: KRS 243.200 provides for transportation of distilled spirits by a common carrier but does not specifically provide for the loading, unloading, and temporary custody of distilled spirits by a freight forwarder or warehouseman, which may be necessitated by the transfer from one (1) truck to another of the distilled spirits. This regulation authorizes such freight forwarder to receive, hold, and reship the distilled spirits and wine by common carriers licensed by this department. *The fee for the herein license was changed by the 1978 Legislature and now appears in KRS 243.030(22).*

Section 1. A distilled spirits and wine freight forwarder's license shall be granted by the administrator of the distilled spirits unit and shall authorize the licensee to receive from and tender to transporters duly licensed under KRS 243.200, such distilled spirits and wine as are consigned to licensees under KRS 243.020, in the Commonwealth of Kentucky. [The fee for said license shall be twenty-five dollars ($25).]

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:200. Warehouses.

RELATES TO: KRS 243.030*(15)* [(18)]
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: This regulation provides for a special license applicable to distillers who desire to close their distilling operations but desire to retain the use of their warehousing facilities. The specific licensing provisions of KRS 243.030 make no specific provision for such a license. The need for such a special license arose in the late 1960's when, by merger or outright purchase, small distilleries were being absorbed by larger operations, and in many instances the larger operation desired to suspend the distilling of alcoholic beverages at the smaller location, but retained the storage and warehousing facilities of the smaller distillery. This license is limited to the period of time when distilling is suspended and if distilling operations are begun again, this special license becomes null and void and the distiller must once again operate under a distillers license. *The fee for the herein license was changed by the 1978 Legislature and appears as KRS 243.030(15).*

Section 1. (1) A bonded distilled spirits warehouse license may be issued, upon proper application, to any person, firm or corporation operating a bonded warehouse for distilled spirits, and who does not at the same time, and for the same premises, hold a federal operating permit for distilling purposes, but who possesses only a federal operating permit for a bonded warehouse for distilled spirits as defined by federal law (26 U.S.C., I.R.S., 5171, 5251).

(2) The license issued under this section shall authorize the licensee to operate a bonded warehouse or warehouses for premises specifically designated, and such license shall become null and void if a federal operating permit for distilling purposes is issued for the same premises, and shall remain void so long as such federal permit remains in effect. Upon the granting of a federal operating permit for distilling purposes the licensee of the premises previously licensed hereunder shall obtain a license as set out in KRS 243.030(1).

[(3) The annual fee for a bonded distilled spirits warehouse license shall be fifty dollars ($50).]

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 5:030. Personnel prohibition.

RELATES TO: KRS 244.090
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: In addition to the specific prohibitions contained in KRS 244.090, pertaining to personnel used in the conduct of the business where alcoholic beverages are sold, the second paragraph of this regulation prohibited any person under the age of twenty (20) years from performing any duties in connection with alcoholic beverages on the licensed premises. However, by House Bill No. 444, effective June, 1974, a new section to KRS 244.090 was added, which allows persons eighteen (18) years of age or over to be employed to stock, arrange displays, accept payment for, and sack malt beverages by the package, under the supervision of an adult. It should be noted that the new legislation only pertains to malt beverage licensees, and therefore, does not affect the existing twenty (20) year old prohibition applicable to all other licensees. Since the change herein has been accomplished by legislative enactment, there is no necessity for this department to conduct a hearing on the change. *The 1978 Legislature amended KRS 244.090(1)(a) to provide that any felony or misdemeanor conviction must be directly or indirectly related to the use of intoxicating liquors. Additionally, the amended statute does not require an employee of a licensee to be a citizen or resident of Kentucky for one (1) year. This amendment is therefore necessary to conform to the amended KRS 244.090.*

Section 1. (1) A licensee who operates another business on the same premises as his alcoholic beverage business shall be prohibited from employing in such business any person barred by KRS 244.090. [, namely a person convicted of a felony or of any misdemeanor or offense directly or indirectly attributable to the use of liquor; a person not a citizen of the United States; a nonresident of Kentucky within one (1) year; a person whose alcoholic beverage license has been revoked or who has been convicted of violating liquor laws.]

(2) Persons at least eighteen (18) years of age may stock, arrange displays, accept payment for and sack malt beverages by the package, under the supervision of an adult. Delivery of malt beverages away from the parking area of the licensed business premises shall not be performed by anyone under the age of twenty (20) years.

(3) A retail licensee who operates another business on the same premises may employ a person under the age of twenty (20) years. The person employed shall not perform any duties in connection with alcoholic beverages.

(4) Any licensee who knowingly employs any person to work as hereinabove prohibited or who shall permit or allow any person with or without his knowledge or consent to so work, shall, upon conviction be subject to the penalty provided in KRS 243.490.

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 8:060. Persons not eligible to be licensed.

RELATES TO: KRS 243.110, *243.210*
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: This regulation is specifically designated to prevent the holder of any other license issued by this department from holding a transporter's license for distilled spirits and wine or for malt beverages. The purpose of a transporter's license is to enable the transportation of alcoholic beverages for any licensee desiring such service. This regulation prevents the holder of any other license from securing a transporter's license and then refusing to transport except for their own purpose. *The 1978 amendments of KRS 243.110 and 243.210 make it necessary to amend this regulation to conform to the two (2) said statutes.*

Section 1. No person, firm or corporation shall hold a transporter's license for distilled spirits and wine or for malt beverages if he owns any interest as a stockholder or otherwise in any other license issued by this department, *or*

does not qualify under KRS 243.110 or 243.210. [This regulation shall not apply to any transporter's license issued prior to the adoption of this regulation or any renewal of the same.]

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTIONS AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:200. Administration of purses and payments.

RELATES TO: KRS 230.770
PURSUANT TO: KRS 230.770
NECESSITY AND FUNCTION: To regulate races and purses and payments in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund. The function of this regulation is to establish mandatory criteria for these races and the administration of purses and payments in such races.

Section 1. Races in which any part of the purse is provided by the Kentucky Standardbred Development Fund shall be subject to the rules and regulations of the Kentucky Harness Racing Commission.

Section 2. Each participating foal must have been sired by a stallion registered with the Kentucky Harness Racing Commission, and eligibile to the Kentucky Standardbred Development Fund.

Section 3. Each race shall be a one (1) mile dash.

Section 4. The race will split if more than twelve (12) declare to start. In the case of a split the event will be raced adopting one of the methods of division racing then current in the Kentucky Harness Racing Commission rules and regulations, except the Kentucky Standardbred Development Fund will add the money to the purses.

Section 5. Gait must be specified by the first two (2) year old payment. Transfer may be made at the time of declaration but sustaining payments remain in the respective funds.

Section 6. All races will be raced in separate colt-gelding and filly divisions.

Section 7. All declaration fees will be added to the purse and will be made payable to the Kentucky Standardbred Development Fund at the time of declaration.

Section 8. The purse will be distributed on the following percentage basis:

(1) 50-25-12-8-5: 5 starters or more;
(2) 50-25-15-10: 4 starters;
(3) 60-30-10: 3 starters;
(4) 65-35: 2 starters.

Section 9. Should circumstances prevent the racing of any event, monies will be prorated among horses eligible for the uncontested event at the time of declaring off. In the event the race is drawn, the monies will be equally divided among the horses entered to start. This will include stake payments, declaration fees and purses provided by the Kentucky Standardbred Development Fund.

Section 10. Starters will declare in at each track at the time specified by the association conducting the event.

Section 11. At the time of the declaration a starter must show at least one (1) charted line with no breaks within the last six (6) starts and within thirty (30) days prior to the day of the race and a two (2) year old trotter must have been timed in 2:18 or faster and a two (2) year old pacer must have been timed in 2:15 or faster. An eligibility certificate or a clear photocopy of the eligibility certificate must be on deposit with the race secretary at the time of declaration or the declaration may be rejected. If the horse has a start subsequent to the eligibility certificate of photocopy being sent, the declarer must advise the race secretary of the commitment to race or the horse may be scratched from the race. This rule shall be in effect for wagering and non-wagering races.

Section 12. After payment of the nomination fee, foals shall remain eligible for events each year by making the required sustaining and declaration payments for that year.

Section 13. The Kentucky Standardbred Development Fund will be distributed by the Kentucky Harness Racing Commission on an equitable basis to promote the purposes expressed in KRS 230.770. The commission may authorize expenditures at any time; however, the commission will, at its scheduled meeting each November, make provisions for the following year's distribution of funds for stake races.

Section 14. The Kentucky Standardbred Development Fund will provide a trophy for each event. In the case of division races each division shall receive a trophy.

Section 15. All nomination and sustaining payments shall be made to the Kentucky Standardbred Development Fund.

Section 16. Payments:

Two-Year Olds

PAYMENTS

March 15th ..... $ 40
May 15th $100
Declaration Fee [Starting Fee] (for each track) $100
March 15th payment makes entry eligible as a 3-year old.

Three-Year Olds

PAYMENTS

February ..... $ 40
March 15 ..... $100
Declaration Fee [Starting Fee] (for each track) $100

Section 17. All yearlings will be nominated on May 15 and fees will be ten dollars ($10) each. Fees are payable to the Kentucky Standardbred Development Fund.

CARL B. LARSEN, Deputy Commissioner
ADOPTED: May 18, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: May 23, 1979 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

Proposed Regulations

DEPARTMENT OF FINANCE
State Board of Medical Licensure

201 KAR 9:085. Conditions of probation for disciplinary cases.

RELATES TO: KRS 311.530 to 311.620, 311.990
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 311.595, as enacted by the 1978 General Assembly of Kentucky, permits the Kentucky State Board of Medical Licensure to place licensees on probationary status for a period not to exceed five (5) years. In discharging this function, it is necessary that the board be able to impose varying conditions during the probationary period consistent with the respective problems so confronted, in order to adequately monitor and assist the licensee during the probationary period and to thereby protect patients, the general public or a member thereof.

Section 1. Utilization of Conditions for Probation. On those occasions when, in the judgment of the Kentucky State Board of Medical Licensure, a probationary status of a licensee is indicated, because of the diversity of problems so confronted, it is necessary that the board be able to apply varying conditions upon the physician during the probationary period.

Section 2. Conditions for Probation. Upon reaching the conclusion that a licensee to practice medicine and/or osteopathy should be placed on probation, the board may impose any one (1) or more of the following conditions: (1) The board may appoint one (1) or more board members to be responsible for having the concerned licensee report for interviews on a regular basis. These visits may be set up on a periodic basis as determined by the board; the board members so designated should then report back to the board at its regularly scheduled meeting on the progress of the concerned licensee.

(2) The board may cause the concerned licensee to appear before the board at such intervals as the board may determine in order that said licensee may report on his progress; during these appearances by the concerned licensee, the board may ask the concerned licensee questions so as to observe his behavior and progress;

(3) The board may select a physician, or request the concerned licensee to select a physician, or both, who shall be approved by the board, and said physician shall submit periodic progress reports on the concerned licensee as the board may then thereafter so direct.

(4) The board may appoint a medical consultant whose responsibility shall be to handle interviews with the concerned licensee; the concerned licensee would then report to the so appointed medical consultant on a regular basis as determined by the board, and said medical consultant would then thereafter report to the board at intervals determined by the board.

(5) That in cases of alcoholism and/or drug abuse, as a condition of probation, that the concerned licensee submit periodic blood samples and/or urine drug screen samples either on notice by the board or by order of the board with or without prior notice to the concerned physician.

(6) That the board may direct a concerned licensee to report all medications that the concerned licensee may be utilizing, and to make such report to the board at such intervals as the board may direct from time to time;

(7) That the board may cause the concerned licensee to authorize his personal physician to submit to the board, for review, the concerned licensee's medical history, both as to past medical history, and any and all new medical history as may become available to the personal physician during the period of the probationay term;

(8) That prior to the termination of a probationary term, the board may require the concerned licensee to appear at a regularly scheduled board meeting, and to furnish the board with information as it may then request to the concerned licensee;

(9) That in those situations where indicated, the board may impose additional terms of probation upon a licensee who has initially been placed on probation, without the agreement of the concerned licensee, as long as the entire period of any additional imposed probationary periods does not exceed five (5) years from the initiation date of the originally imposed probationary period.

(10) That in addition to the above described conditions for probation, the board may impose other conditions as it may deem fit with the concurrence and agreement of the concerned licensee.

JOHN C. QUERTERMOUS, M.D., President
ADOPTED: April 26, 1979
RECEIVED BY LRC: May 22, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. C. William Schmidt, Assistant Secretary, Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:005. Definitions.

RELATES TO: KRS 229.011
PURSUANT TO: KRS 13.082, 229.180
NECESSITY AND FUNCTION: KRS 229.180 provides that the Kentucky Athletic Commission is authorized to adopt and promulgate any and all rules and regulations considered by it necessary or expedient for the performance of its function provided in this chapter.

Section 1. Definitions: The following terms shall have the meaning assigned herein:
(1) "Commissioner" means the Chairman of the Kentucky Athletic Commission.
(2) "Employee" means any employee of the Kentucky Athletic Commission.
(3) "Official" means any announcers, judges (amateur), judges (professional), managers, physicans, referees, seconds, ticket selling agents and timekeepers.
(4) "Contestant" means any boxer or wrestler either male or female and any animal whatsoever participating in boxing or sparring matches, wrestling matches or exhibitions coming under the jurisdiction of the Kentucky Athletic Commission.
(5) "Trainer" means any person who participates in the training of any contestant provided such training occurs within this Commonwealth or who participates in such training in any way preceding or during the match.
(6) "Manager" means any person managing, handling, booking, directing, or in any other way directly or indirectly acting for or with a contestant in obtaining and participating in any contest or exhibition, whether for compensation or not.
(7) "Second" means any person aiding, assisting or advising a contestant during a boxing contest or exhibition.
(8) "Show" means any boxing or sparring matches, wrestling matches or exhibitions coming under the jurisdiction of the Kentucky Athletic Commission.
(9) "Club" means any person, corporation, association or partnership conducting boxing or sparring matches under the jurisdiction of the Kentucky Athletic Commission.
(10) "License" means the written authority to engage in the business of conducting, holding, giving, or officiating at, or participating in, boxing or sparring matches, wrestling matches, or exhibitions.
(11) "Permit" means a written permission for licensee to engage in, conduct, hold, or give a professional boxing or sparring match, wrestling match, or exhibition at a specific date and hour and at a specific place.
(12) "Promoter" whether an individual, corporation, association, partnership or club means any applicant who has been issued a license to promote and conduct professional boxing or wrestling matches or exhibitions within this Commonwealth.

FRANK SGROI, Chairman
ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:010. General requirements.

RELATES TO: KRS 229.071(2), 229.171
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.071(2) provides that an applicant for a license to conduct professional boxing and wrestling matches must always conduct himself in the best interest of boxing and wrestling generally. KRS 229.171 states that the Commission is given the sole control, authority and jurisdiction over professional boxing and wrestling and all persons who participate therein.

Section 1. Notice of any change in a program or any substitutions in a show must be immediately filed with the commissioner. After receipts of approval of the commissioner for such change or substitution, such changes or substitutions must immediately be publicly announced by the club in a newspaper of general circulation and by such other methods as are available and convenient.

Section 2. Before the beginning of a show, all changes or substitutions shall be announced from the ring, and in addition, notice of any change or substitution must be posted in a conspicuous place at the ticket office. Purchasers of tickets will be entitled, upon request by them, to a refund of the purchase price of such tickets, provided such request is made before the commencement of the show.

Section 3. Promoters shall be held responsible for any betting, wagering or gambling in any form which takes place upon their premises. Each club shall post in four (4) parts of the arena the warning "No Betting Allowed."

Section 4. All promoters shall cause the prompt ejection of any person guilty of any disorderly conduct or drunkeness.

Section 5. Promoters shall not permit drinks to be dispensed on the floor of the arena nor on the premises except in paper cups, and not at all during the actual presentation of the show.

Section 6. The row nearest the ring on all four (4) sides shall be known as "Commission and Press Row" and shall be under the exclusive control of the commission.

Section 7. All applications for permits must reach the commissioner not less than ten (10) days prior to the date of the proposed match or exhibition.

Section 8. The ring specification shall be as follows: (1) All contests shall be held in a roped ring not less than sixteen (16) nor more than twenty (20) feet square inside the ropes; and the floor of the ring shall extend beyond the ropes for a distance of not less than two (2) feet and shall be elevated not more than four (4) feet above the arena floor and shall be provided with steps for the use of those properly entitled to enter the ring.
(2) The ring shall be formed of posts and ropes, said ropes extending in a triple line eighteen (18) inches, thirty-five (35) inches and fifty-two (52) inches above the ring floor, and said ropes to be not less than one (1) inch in diameter and wrapped in clean, soft material drawn taut.

A fourth rope may be used subject to prior approval by the commissioner.

(3) Ring psots shall be made of metal or other strong material not more than three (3) inches in diameter and not nearer the ropes than eighteen (18) inches and shall be wrapped in soft, clean material.

(4) The ring floor shall be padded or cushioned with soft material, to be approved by the commissioner, of not less than one (1) inch in thickness and extending over the edge of the platform, with a covering of canvas or similar material tightly stretched.

Section 9. A gong or horn shall be used by the timekeeper in indicating the time.

Section 10. Buckets, water buckets, stools, powdered resin, fans and such other articles as are necessary in the contest shall be furnished in sufficient number and quantity by the promoter.

Section 11. Boxing decisions shall be rendered as follows: (1) If a contest lasts the scheduled limit, the winner of such contest shall be decided by a majority vote of the judges if three (3) are used, or by a majority vote of the judges and the referee if two (2) judges are used, or by the referee alone if no judges are used.

(2) Decisions shall be based primarily on effectiveness, giving credit for:

(a) Clean, forceful hitting in boxing bouts;

(b) Aggressiveness;

(c) Defensive work; and

(d) Ring generalship and deducting points for an opposite showing.

(3) The winner of a wrestling contest shall be decided by a fall or falls or time limit as may be agreed upon in making the match.

Section 12. Boxing scoring shall be as follows: (1) Each round in boxing is to be accounted for on the score card, using the five (5) point (or ten (10) point at the commissioener's discretion) must system. Score in ratio of merit and demerit, the difference displayed by the contestants.

(2) Score cards must be signed and handed to the announcer in the ring and filed by him with the commissioner or employee of the Kentucky Athletic Commission in attendance. The decision shall then be announced from the ring.

Section 13. No boxing contestant shall take part in any bout until after six (6) days have elapsed since his participation in a bout of ten (10) rounds or more nor until three (3) days have elapsed since his participation in a bout of less than ten (10) rounds.

Section 14. Boxing rounds shall be as follows: (1) Rounds shall be of three (3) minutes duration, with one (1) minute rest period between rounds.

(2) No boxing bout, except championship bouts, shall be of more than twelve (12) rounds.

(3) All main bouts shall be ten (10) rounds or more unless the commissioner in his discretion provides otherwise.

(4) Championship bouts may be more than twelve (12) rounds, but the number of rounds shall be approved by the commissioner.

Section 15. Requirements for boxing gloves shall be as follows: (1) Contestants shall wear boxing gloves, to be furnished by the promoter, of equal weight and not less than six (6) ounces for contestants over the featherweight class and not less than five (5) ounces, in or under, the featherweight class.

(2) Gloves for all main bouts shall be new and shall be put on in the ring subject to the commissioner's discretion. All gloves shall be clean and in a sanitary condition. No breaking, roughing or twisting of gloves shall be permitted. The laces on gloves shall be tied on the back of the wrist and taped.

Section 16. Requirements for bandages shall be as follows: (1) Only soft cotton or linen bandages shall be used for the protection of the boxer's hands. Bandages shall not be more than two (2) inches in width and five (5) yards in length for each hand.

(2) Medical adhesive tape not more than one (1) inch in width may be used to hold bandages in place. Adhesive tape shall not be lapped more than one-eighth (1/8) of one (1) inch. Adhesive tape not to exceed one (1) thickness shall be crossed over the back of the hand for its protection. Three (3) strips of adhesive tape, lapping not to exceed one-eighth (1/8) of one (1) inch, may be used for protection of the knuckles.

Section 17. The boxing count shall be as follows: (1) If a boxer is knocked to the floor by his opponent or falls from weakness or other causes, his opponent shall immediately retire to the farthest corner of the ring and remain there until the referee completes his count or signals a resumption of action. The referee, after the opponent reaches the farthest corner of the ring, shall commence counting off the seconds and indicating the count with a motion of the arm.

(2) If a boxer fails to arise before the count of ten (10), the referee shall declare him the loser by waving both arms to indicate a knockout.

(3) If a boxer who is down arises during the count, the referee may, if he deems it necessary, step between the boxers long enough to assure himself that the boxer just arisen is in condition to continue the bout.

(4) Should a boxer who is down arise before the count of ten (10) is reached and again go down from weakness or the effects of a previous blow, without being struck again, the referee shall resume the count where he left off.

Section 18. A failure to resume a bout shall be as follows: (1) Should a boxer fail to resume the bout for any reason after a rest period, or leave the ring during the rest period and fail to be in the ring when the gong rings to begin the next round, the referee shall count him out the same as if he were down in that round.

(2) If a boxer who has been knocked out of or has fallen out of the ring during a bout fails to return immediately to the ring and be on his feet before the expiration of ten (10) seconds, the referee shall count him out as if he were down.

Section 19. A boxer shall be considered "down" when: (1) Any part of his body other than his feet is on the ring floor; or

(2) He his hanging helplessly over the ropes and in the judgment of the referee, he is unable to stand; or

(3) He is rising from the "down" position.

Section 20. (1) The following shall be considered boxing fouls:

(a) Hitting below the belt;

(b) Hitting an opponent who is down or who is getting up after having been down;
(c) Holding an opponent and deliberately maintaining a clinch;
(d) Holding an opponent with one hand and hitting with the other;
(e) Butting with head or shoulder or using the knee;
(f) Hitting with inside or butt of the hand, the wrist, or the elbow, and all backhand blows;
(g) Hitting or "flicking" with the glove open or thumbing;
(h) Wrestling, or roughing, against the ropes;
(i) Purposely going down without having been hit;
(j) Deliberately striking at the part of opponent's body over the kidneys;
(k) Use of the pivot blow or rabbit punch or any physical action which may injure a contestant;
(l) Use of abusive or profane language; or
(m) Failure to obey the referee.
(2) A contestant who commits a foul may be disqualified and the decision awarded to his opponent by the referee. The referee must immediately do so if contestant commits a deliberate and willful foul which incapacitates his opponent.
(3) Any boxer committing a foul may be suspended for any length of time deemed necessary.
(4) If a bout is temporarily stopped by the referee, due to accidental fouling, said referee, with the aid of the physician, if necessary, shall decide whether the contestant who has been fouled is in physical condition to continue the bout. If in their opinion said contestant's chances have not be seriously jeopardized, as a result of the foul, he shall order the bout resumed after a reasonable time, such time to be set by the referee, but in any event not exceeding three (3) minutes.

Section 21. The following shall be prohibited in boxing:
(1) "Battle Royal;" and
(2) Use of grease or any other substance which may handicap an opponent.

Section 22. The wrestling canvas ring shall be clean and sanitary and free from grit, dirt, resin, or other foreign substances. The following provisions shall relate to wrestling "falls;"
(1) Both shoulders momentarily pinned to the canvas (for the referee's silent count of three (3) seconds) shall constitute a fall. Flying and rolling falls shall not count.
(2) Conceding a fall, or quitting because of having received punishment from a legitimate hold, constitutes a fall.
(3) Referee shall not place his hands under the shoulders of a contestant unless necessary to determine a fall.
(4) The referee shall slap on the back, or shoulder, a contestant securing a fall.

Section 23. When wrestling contestants roll off the canvas and under the ropes, they shall be ordered to the middle of the ring to resume the contest. If a contestant fails to obey the referee's order to return to the ring before the expiration of ten (10) seconds he shall be counted out and the decision awarded to his opponent.

Section 24. The following shall relate to wrestling holds: (1) Any legitimate holds or methods known to wrestling science may be used by the contestant, but no deliberate slugging, strangling, gouging, biting, kicking, hair-pulling, spitting, or scratching shall be permitted.
(2) Contestant's fingernails must be trimmed well below the tips of the fingers.
(3) No contestant shall be permitted to grasp or hang onto clothing, canvas, or ropes for support during the progress of a contest.
(4) The piledriver hold is prohibited.
(5) When a contestant throws an opponent over the ropes he will be automatically disqualified.
(6) When a referee orders the contestants to break, they must do so within a three (3) count.

Section 25. For use of foul tactics after warning by the referee, the offending wrestling contestant may be placed on the defensive or disqualified by the referee and the decision awarded to his opponent.

FRANK SGROI, Chairman
ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:015. Prompt payment of fees, fines and forfeitures required.

RELATES TO: KRS 229.081, 229.091(1), 229.991
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes. This regulation is intended to insure that licensees pay all fees, fines and forfeitures owed to the Commonwealth in a prompt manner.

Section 1. All compensation agreements shall be in writing and submitted to the commissioner for his approval not less than five (5) days prior to the date of the proposed show.

Section 2. Compensation shall not be paid to any contestant or official in advance unless by prior approval of the commissioner.

Section 3. No promoter shall pay any part of the compensation due to managers, contestants, or their agents, if such manager or contestant owes the Commonwealth of Kentucky any fees, fines, forfeitures, or other funds incurred in conducting, holding, giving, officiating at, or participating in, boxing or sparring matches, wrestling matches or exhibitions.

FRANK SGROI, Chairman
ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:020. Tickets.

RELATES TO: KRS 229.031
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: In order to assure that the state receives its five percent (5%) tax of the gross receipts from the sale of all tickets to a match or exhibition, a regulation is required to govern and control the sale of such tickets. KRS 229.180 states that in order to provide more supervision, the General Assembly intended the Commission to have wider discretion than that ordinarily possessed by administrative agencies.

Section 1. All persons admitted to any match or exhibition except representatives of the commissioner, employees of the Kentucky Athletic Commission, employees of the licensed promoter, officials, representatives of the press, and contestants shall be required to have a ticket. No cash may be accepted for admission by any representative of the promoter except the properly authorized ticket selling agent. All officials, employees or other duly authorized representatives of the Kentucky Athletic Commission must be admitted to any professional or amateur exhibition or match upon showing the identification card signed by the commissioner.

Section 2. Orders for all admission tickets to be purchased, printed, sold, given away or used by a club shall be submitted in writing in duplicate to the commissioner for his approval. If the order for such tickets is approved, a copy shall be retained by the commissioner for his files.

Section 3. All orders for admission tickets shall specify:
(1) Different color for each price class of admission ticket.
(2) Admission tickets to be numbered in consecutive order for each price class ticket.
(3) Verified manifest delivered by the printer to the commissioner for each order of tickets printed and delivered to the promoter.

Section 4. Complimentary tickets shall be of such color and character as to make them readily distinguishable from paid admission tickets. The commissioner may limit the number or otherwise restrict the use of such tickets and he may require the payment of taxes on all such complimentary admission tickets. The Kentucky Athletic Commission shall be entitled to receive twelve (12) complimentary reserved tickets upon request clearly marked "Not for Sale" to any professional boxing or wrestling match or exhibition conducted and held within this Commonwealth.

Section 5. A schedule of ticket prices must be posted conspicuously at the front of the ticket office and tickets shall not be sold for any prices other than the price printed on the face thereof.

Section 6. All admission tickets collected at the gate shall be deposited in a suitable lock box. Said lock box shall not be opened at any time except in the presence and under the supervision of the commissioner or an employee of the Kentucky Athletic Commission.

Section 7. Each purchaser of an admission ticket shall be given a stub which shall be redeemed by the promoter on presentation by the purchaser should the show not take place as published and announced.

FRANK SGROI, Chairman
ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:025. Identification cards.

RELATES TO: KRS 229.151
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.151 provides for the creation of the Kentucky Athletic Commission and for the positions of chairman, vice chairman and other employees of the commission.

Section 1. Any representative of the commission shall have in his possession an identification card signed by the commissioner or chairman which shall entitle the representative to free entrance into any boxing or wrestling contest held in this Commonwealth whether amateur or professional.

FRANK SGROI, Chairman
ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:030. Contestants.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for all licensing of contestants for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. Contestants shall report to and be under the general supervision of the commissioner or employee of the Kentucky Athletic Commission in attendance at the show, and shall be subject to any reasonable orders given by the commissioner or employee.

Section 2. No contestant shall assume or use the name of another and shall not change his ring name nor be announced by name other than that which appears on his license except upon approval of the commissioner.

Section 3. Contestants must be clean, neatly attired in proper ring attire and trunks of opponents shall be of distinguishing colors.

Section 4. Boxers shall not use white trunks while engaged in a show, and contestants shall not use during a show a belt which contains any metal substance. Such belt as is permissable shall not extend above the waist line of the contestant.

Section 5. Contestants shall wear shoes of soft material during a show, and such shoes shall not be fitted with spikes, cleats, hard soles, or hard heels.

Section 6. Contestants, while engaged in a show, shall wear abdominal guards or protection cups of such a type as have the approval of the commissioner or employee of the Kentucky Athletic Commission in attendance and which, in contestant's own judgment, are sufficient protection to withstand any blow which might injure contestant.

Section 7. Whenever a contest is ended by reason of fouling or failure to give an honest exhibition of skill, the compensation of the contestant so offending shall be withheld by the club and forfeited into the custody of the commissioner. Such forfeit shall be disposed of as may be ordered.

Section 8. The class weights permitted in boxing bouts shall be as follows:

CLASS	WEIGHT
Flyweight	to 112 lbs.
Bantamweight	to 118 lbs.
Jr. Featherweight	to 122 lbs.
Featherweight	to 126 lbs.
Jr. Lightweight	to 130 lbs.
Lightweight	to 135 lbs.
Jr. Welterweight	to 140 lbs.
Welterweight	to 147 lbs.
Jr. Middleweight	to 154 lbs.
Middleweight	to 160 lbs.
Light Heavyweight	to 175 lbs.
Heavyweight	over 175 lbs.

Section 9. Contestants in all shows held under the jurisdiction of the Kentucky Athletic Commission shall weigh in stripped, on the day of the contest or at another hour within eight (8) hours prior to entering the ring on the day of the contest, in the presence of his opponent for the bout. The commissioner or an employee of the Kentucky Athletic Commission and a representative of the promoter conducting the bout shall be in attendance.

Section 10. At the time of weighing-in, a physical examination of each opponent shall be made by the official physician. A record of each contestant's weight shall be recorded by the representative of the promoter and such record shall also be filed with the Kentucky Athletic Commission.

Section 11. A contestant shall immediately notify the promoter and the commissioner if, as a result of illness or for any other reason, he is unable to participate in a show, in which he has entered into a contract to engage, and shall immediately file with the commissioner a reputable physician's certificate verifying such injury or illness, or such other verified evidence, as the commissioner may require to establish valid reasons for his failure to participate. The commissioner may require a contestant to submit to an examination if deemed necessary to establish the true facts of the contestant's failure to participate.

Section 12. The foregoing requirements shall not apply to any animal contestant, with the exception that all animal contestants shall be under the general supervision of the commissioner or employee of the Kentucky Athletic Commission in attendance at the show, and shall be subject to any reasonable orders given by the commissioner or employee.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:035. Seconds.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of seconds at professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. Seconds shall report to and be under the general supervision of the commissioner or employee of the Kentucky Athletic Commission in attendance at the show. They shall obey all reasonable orders of the commissioner or employee.

Section 2. Seconds shall be properly qualified for such duties and shall be governed by the law and rules and regulations of the Kentucky Athletic Commission.

Section 3. Any violation, by seconds, of the law or rules and regulations of the Kentucky Athletic Commission may be sufficient cause for disqualification of the contestant, for whom they act, by the referee or judges.

Section 4. Seconds shall not act as managers unless so licensed.

Section 5. Seconds shall not be more than three (3) in number in main bouts and two (2) in number in other bouts.

Section 6. Seconds shall be equipped with first aid kits and the necessary supplies for proper attendance upon their contestants.

Section 7. Seconds shall leave the ring at the timekeeper's ten (10) seconds whistle before the beginning of a boxing contest, or a period of wrestling, removing all first aid kits, supplies, buckets, stools, etc. None of these articles shall be placed on the ring floor until after the gong has sounded at the end of the round or period.

Section 8. Seconds shall not throw towels or other articles into the ring.

Section 9. Seconds shall not coach nor in any way assist a contestant except during rest periods and shall not by word or action hinder, heckle or annoy contestant's opponent at any time.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:040. Managers.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of managers at professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. Managers shall report to and be under the general supervision of the commissioner or employee of the Kentucky Athletic Commission in attendance at the show. They shall be subject to any reasonable orders given by the commissioner or employee.

Section 2. Managers shall do business only with promoters, officials, and contestants licensed by the Kentucky Athletic Commission who are in good standing and they shall act as managers only in shows that have been approved by the commissioner.

Section 3. Managers shall not act or attempt to act in any way for a contestant unless legally authorized to do so by said contestant.

Section 4. Copies of written contracts between managers and contestants may be filed with the commissioner as evidence of such authority to act and must be filed if requested by the commissioner.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:045. Judges.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of judges for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. The judges officiating at any show shall be governed by the law and rules and regulations adopted by the Kentucky Athletic Commission and shall be subject to any reasonable orders given by the commissioner.

Section 2. At the beginning of a show the judges shall locate themselves on opposite sides of the ring and shall carefully observe the performance of the contestants. At the conclusion of the bout they shall render their decision.

Section 3. The judges shall be ready at all times during the progress of the bout, if requested by the referee, to assist him in determining whether fouls have been committed, whether the contestants are in earnest, and whether there is collusion affecting the result of the bout.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:050. Announcers.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of announcers for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. The announcer officiating at any show shall be governed by the law and rules and regulations adopted by the Kentucky Athletic Commission, and he shall be subject to any reasonable orders given by the commissioner.

Section 2. The announcer shall have general superivison over all announcements made by the ringside or in the arena. He shall announce from the ring the name of contestants, their correct weight, decisions at the end of each bout, and such other matters as are necessary. No person other than the official announcer shall make announcements.

Section 3. Before announcing the result of a bout, the announcer shall enter the ring and collect the score cards from the judges and the referee and shall immediately submit them for examination to an employee of the Kentucky Athletic Commission and then shall immediately announce the decision.

Section 4. In the event a bout is stopped before its scheduled termination, the announcer shall immediately confer with the referee and an employee of the Kentucky Athletic Commission and promptly thereafter announce the action taken.

Section 5. The announcer shall not enter the ring during the actual progress of a bout.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:055. Physicians.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of physicians for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. The physician officiating at a show shall be governed by the law and rules and regulations adopted by the Kentucky Athletic Commission and shall be subject to any reasonable orders given by the commissioner.

Section 2. The physician shall have general supervision over the physical condition of the contestants, and it shall be his duty to make a thorough physical examination of all contestants at weighing-in-time, or within eight (8) hours prior to the time set for their entrance into the ring. He shall deliver a written report to the commissioner or other agent or employee of the Kentucky Athletic Commission, in attendance at the show, stating the physical condition of the contestant prior to the contestant's entrance into the ring.

Section 3. The physician shall take his position near the ringside and shall carefully observe the physical condition of the contestants during the bout, and he shall be prepared to administer medical aid should any emergency arise requiring same.

Section 4. The physician shall prohibit any contestant who is physically unfit for competition from entering the ring, and he shall order the referee to stop a bout if he deems such action necessary to prevent serious physical injury to a contestant, official, second, manager, or spectator.

Section 5. The physician shall not enter the ring except in an emergency or unless authorized to do so by the referee or an employee of the Kentucky Athletic Commission in attendance.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:060. Referees.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of referees for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. The referee shall be the chief official of the show, and he shall take his place in the ring and shall have general supervision over the contestants, managers, and seconds during the entire show.

Section 2. The referee shall be familiar with the law and rules and regulations governing boxing and wrestling, and he shall be responsible for their enforcement during the entire period of a show.

Setion 3. The referee shall, before starting a show, ascertain from each contestant the name of his chief second and hold said chief second responsible for the conduct of his assistant seconds during the progress of the show.

Section 4. The referee shall call contestants together in the ring immediately preceding a show for final instructions, at which time each contestant shall be accompanied in the ring by his chief second only.

Section 5. The referee shall inspect the person, attire, and equipment of the contestants and make certain that no foreign substances which are contrary to the law and rules and regulations concerning the same have been applied or used by the contestants.

Section 6. The referee shall have the authority to stop a show at any time if he considers it too one-sided or if either of the contestants is apparently unable to protect himself from possible injury or if he considers the contestants not in earnest or if he has reasonable grounds to believe that there be collusion affecting the results of the contests; and in such a case, he may disqualify one (1) or both contestants and declare that no contest has been held.

Section 7. The referee shall have the authority to disqualify a contestant who commits a foul and award the decision to his opponent. He must immediately disqualify a contestant who commits an intentional or deliberate foul of such nature as to incapacitate an opponent.

Section 8. The referee shall decide a round in favor of the contestant who has been fouled by his opponent, and he may permit a rest period at any time not exceeding three (3) minutes.

Section 9. The referee shall not touch the contestants during the progress of the show except upon failure of contestants to obey his orders.

Section 10. Upon conclusion of the show the referee shall render his decision unless, by appropriate action of the director, provision has been previously made for a decision by judges.

Section 11. The referee shall decide all questions arising during a show which are not otherwise specifically covered by law or the rules and regulations of the Kentucky Athletic Commission.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:065. Doormen.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of doormen for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. The doorman, or doormen, officiating at any show shall be governed by the law and rules and regulations adopted by the Kentucky Athletic Commission and shall be subject to any reasonable orders given by the commissioner or employee of the Kentucky Athletic Commission in attendance. He shall have general supervision over all entrances into the arena and he shall not permit any person to enter the arena without a ticket or admission card. He shall see that all tickets are taken up at each entrance and are immediately placed in a locked ticket box and that said ticket box is not opened except in the presence of the commissioner or an employee of the Kentucky Athletic Commission.

FRANK SGROI, Chairman

ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

DEPARTMENT OF FINANCE
Kentucky Athletic Commission

201 KAR 27:070. Timekeeper.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of timekeepers for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. The timekeeper officiating at any show shall be governed by the law and rules and regulations adopted by the Kentucky Athletic Commission and shall be subject to any reasonable orders given by the commissioner.

Section 2. The timekeeper shall seat himself outside the ring near the gong and shall take his cue to commence or take time out from the nod of the referee.

Section 3. The timekeeper shall be provided with a whistle and a stop watch, the accuracy of which shall have been properly examined and certified to by a reputable watchmaker before it is used.

Section 4. Ten (10) seconds before the start of each round of a boxing show, the timekeeper shall give warning to the seconds, contestants, and officials by sounding the whistle.

Section 5. The timekeeper shall indicate the starting and ending of each round of a boxing contest by striking the gong with a metal hammer.

Section 6. In the event a bout terminates before the scheduled limit the timekeeper shall inform the announcer of the exact duration thereof.

Section 7. In wrestling bouts the timekeeper shall sound a gong at the starting of the bout and at the termination of each five (5) minute period during the bout. He shall call out the length of time the contestants have been wrestling sufficiently loud for the referee to hear. He shall sound a gong at the end of the rest period previously agreed upon and again at the end of the bout.

FRANK SGROI, Chairman
ADOPTED: May 30, 1979
RECEIVED BY LRC: May 31, 1979 at 11:30 a.m.
PUBLIC HEARING: A public hearing will be held concerning this proposed regulation at the hearing room of the Frankfort Sports Center, 405 Mero Street, Frankfort, Kentucky on August 16, 1979, at the hour of 2:00 p.m.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction

704 KAR 3:011. Repeals.

RELATES TO: KRS 157.360, 156.160
PURSUANT TO: KRS 13.082, 156.070, 156.160
NECESSITY AND FUNCTION: Administrative Special Instructional Services Units are listed in 704 KAR 3:010 and the criteria local boards of education shall follow in establishing ASIS units are recorded in 704 KAR 3:030. Therefore, respective content relating to each unit is not needed and should be rescinded.

Section 1. The following provisions of the Kentucky Administrative Regulations are hereby repealed:
704 KAR 3:040. Criteria for the unit of superintendent or assistant superintendent.
704 KAR 3:050. Criteria for the unit of principal or assistant principal.
704 KAR 3:055. Criteria for the unit of instructional coordinator.
704 KAR 3:060. Criteria for the unit of visiting teacher.
704 KAR 3:070. Criteria for the unit of social worker.
704 KAR 3:080. Criteria for the unit of school health coordinator.
704 KAR 3:090. Criteria for the unit of physical education teacher.
704 KAR 3:100. Criteria for the unit of health and physical education program consultant.
704 KAR 3:110. Criteria for the unit of music education teacher.
704 KAR 3:120. Criteria for the unit of music program consultant.
704 KAR 3:130. Criteria for the unit of art education teacher.
704 KAR 3:140. Criteria for the unit of art program consultant.
704 KAR 3:150. Criteria for the unit of industrial arts teacher.
704 KAR 3:160. Criteria for the unit of local director of vocational education.
704 KAR 3:170. Criteria for the unit of school media librarian.
704 KAR 3:180. Criteria for the unit of school psychologist or psychometrist.
704 KAR 3:190. Criteria for the unit of driver education and traffic safety teacher.
704 KAR 3:200. Criteria for the unit of finance officer.
704 KAR 3:210. Criteria for the unit of school lunch director.
704 KAR 3:220. Criteria for the unit of supervisor of instruction.
704 KAR 3:230. Criteria for the unit of director of pupil personnel.
704 KAR 3:240. Criteria for the unit of reading program consultant.
704 KAR 3:250. Criteria for ASIS unit of special education workstudy program coordinator.
704 KAR 3:260. Criteria for the unit of special consultants in academic subjects.
704 KAR 3:270. Criteria for the unit of teacher-consultants in programs for exceptional children.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: May 23, 1979
RECEVIED BY LRC: June 13, 1979 at 1:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction

704 KAR 3:025. Classroom units.

RELATES TO: KRS 157.360(7)
PURSUANT TO: KRS 13.082, 156.070, 156.160
NECESSITY AND FUNCTION: KRS 157.360 specifies that the Superintendent of Public Instruction shall allot classroom units for administrative and special instructional services in determing the cost of the foundation program for each district. Each unit shall meet the criteria established by the State Board for Elementary and Secondary Education.

Section 1. Classroom units for administrative and special instructional services shall be based on the following program of services:
(1) An art education teacher shall provide an accepted program in art education as described in the current "Approved Guidelines for Art Education," as adopted by the State Board for Elementary and Secondary Education, and filed herein by reference. Copies may be obtained from the department.
(2) An assistant principal shall have such duties as may be assigned including administrative duties and supervision of instruction. The assistant principal shall serve all grades within the school or schools to which assigned. The assistant principal shall devote at least fifty percent (50%) of his/her time to the duties of the assistant principalship. Classroom teaching shall not be considered a part of this

unit. An assistant principal shall not be assigned to a school which does not have the services of principal.

(3) An assistant superintendent shall have such duties as assigned by the superintendent. The duties shall be designed to assist and aid the superintendent in performance of the duties of superintendent as provided in KRS 160.370. The assistant superintendent shall devote himself exclusively to his duties and shall be employed for the full school year.

(4) Consultants shall work in cooperation with the existing supervisory program in the school district; help plan, coordinate, and develop programs in their subject or area specialty in individual schools or system wide; serve as a consultant to classroom teachers, do demonstration teaching and help individual teachers improve the quality of the program at the classroom level; work to improve the facilities, equipment and utilization of materials; and seek to improve the relationship of program to the total school program.

(5) A driver education teacher shall provide a comprehensive program of learning experiences for the purpose of teaching students knowledge, skills, and attitudes to promote traffic efficiency and safety. The program shall follow the guidelines described in the current "Approved Guidelines of Driver and Traffic Safety Education," as adopted by the State Board for Elementary and Secondary Education, and filed herein by reference. Copies may be obtained from the department.

(6) An industrial arts teacher shall provide an accepted program in industrial arts as described in "The Program of Industrial Arts Education in Kentucky," published by the State Department of Education in 1961, and filed herein by reference. Copies may be obtained from the department.

(7) An instructional coordinator shall have such duties as supervision of instruction and staff development which shall include the following types of activities:

(a) Provide staff development services to participating teachers in the area of instructional methodology, instructional strategies, classroom management, and communication skills.

(b) Assist professional school employes in the implementation of the Kentucky Plan for Improving the Professional Performance of School Personnel.

(c) Conduct classroom visitations and follow-up conferences with teachers and other professional school personnel.

(d) Serve as liaison in instructional matters between teachers and administrators within the school and with central office personnel.

(e) Serve as instructional and staff development consultant within the school to teachers, department chairmen, committees, and administrators.

(f) Work under the immediate direction of the school principal.

(8) An instructional television coordinator shall provide service to teachers in the area of instructional methodology and instructional strategies; assist in planning, coordinating, and developing an effective instructional television program for the school district; serve as a resource person to classroom teachers, do demonstration teaching and help to improve the quality of instruction; work to improve facilities, equipment, and utilization of material; and maintain records on all instructional television equipment.

(9) A local director of vocational education shall coordinate and direct the development of the annual and long-range plan for vocational education for the local school districts in cooperation with educational agencies, advisory committees, and other planning agencies. The duties shall include:

(a) Improving vocational facilities, equipment and utilization of vocational materials;

(b) Planning for teacher and community participation in development of curriculum;

(c) Planning for professional improvement of vocational staff; and

(d) Evaluation vocational programs.

(10) A media librarian shall provide a functional program which has a systematic plan for the selection and acquistion of books and other materials plus a loan system for student use. Provisions shall be made for every child to have access to the library. The media librarian shall devote at least fifty percent (50%) of his/her time to the duties of media librarian.

(11) A music education teacher shall provide an accepted program in music education as described in the current "Approved Guidelines for Music Education," as adopted by the State Board for Elementary and Secondary Education, and filed herein by reference. Copies may be obtained from the department.

(12) A physical education teacher shall provide an accepted program in physical education as described in the current "Approved Guidelines for Physical Education," as adopted by the State Board for Elementary and Secondary Education, and filed herein by reference. Copies may be obtained from the department.

(13) A principal shall be assigned administrative and supervision duties. A significant portion of his/her time shall be devoted to supervision and he/she shall be a cooperating participant in the various activities which are designed to improve instruction. The principal shall devote at least fifty percent (50%) of his/her time to the duties of principalship. Classroom teaching shall not be considered a part of this unit. A principal shall supervise at least eight (8) teachers in one (1) or more schools.

(14) A school business administrator and/or finance officer shall supervise, under the direction of the superintendent, the financial affairs of the school district including establishment and maintenance of accounting procedures, and shall be responsible for financial reports required by the superintendent, the board of education, and the State Department of Education. The school business administrator or finance officer shall devote himself exclusively to his duties and shall be employed for the full school year.

(15) A school health coordinator shall work with other school personnel in providing a school health service program which meets the health needs of individual pupils. The program shall consist of the following services:

(a) Coordinate all comprehensive health screening procedures.

(b) Supervise appropriate follow-up of mass screening and direct to appropriate services for each individual child.

(c) Secure and obtain appropriate consultation for communicable diseases.

(d) Supervise and assess the completeness of periodic health examinations of children.

(e) Establish and supervise first aid facilities for each school.

(f) Assist with parent health education program.

(g) Periodically check with teacher for classroom observation, teacher evaluation, and follow-up in such areas as psychological, speech, and neurological.

(h) Follow-up of prolonged illness with the pupil's physician and interpret physician's recommendations to teacher.

(i) Assist with medical aspects of sports.

(j) Maintain a dental health program.
(k) Assist local school officials in meeting the requirements of the school health code pertaining to school employee medical examinations.

(16) A school lunch director shall work with others to plan, develop, administer and supervise the school food service program for all schools in the district.

(17) A school psychologist shall recommend and direct the application of those measuring instruments which will provide most accurately the information about pupils desired by other staff members. The school psychometrist discharges these responsibilities by:

(a) Selecting and recommending the measuring devices that are the most valid and reliable indicators of the pupil characteristics to be considered.

(b) Planning, organizing and directing the administration of the tests or other devices chosen by the school staff member or members.

(c) Planning, organizing and directing the scoring of the measures administered.

(d) Converting the raw scores into such terms as are desired by the staff.

(e) Making such statistical calculations as are needed by the staff.

(f) Preparing charts, graphs and other interpretative materials for the use of the staff.

(g) Keeping and filing for later reference the important data obtained.

(h) Selecting, training and supervising clerical workers employed to score tests, collect data, and carry out statistical tasks in his/her office.

(i) Conducting minor research studies of groups of school pupils for administrative, supervisory or guidance counselors.

(j) Assisting guidance counselors in obtaining and organizing pertinent data needed regarding individual students.

(k) Making diagnostic studies of the individual child. The purpose of the services rendered by the school psychometrist to other individuals and groups is to conserve the time of the school's teachers, guidance counselors(s) and administrative and supervisory personnel in supplying recorded data regarding sudents to agencies or individuals not directly involved in the school's educational programs.

(18) A school psychometrist shall provide to members of the staff, data regarding the characteristics and abilities of individual pupils and groups of pupils in the schools. The duties shall include specialized evaluation and measurement of the psychological and educational traits of students and the statistical treatment of numerical data obtained by evaluative methods.

(19) A school social worker and/or visiting teacher shall work with individual pupils who need help with problems of social adjustment promoting positive adjustment to school experience, and helping pupils find opportunities to continue their educational progress toward realization of their potential. The finding shall be coordinated with the respective teachers.

(20) A special education work-study program coordinator's duties shall include on the job placement and supervision in working situations of exceptional children between the ages of fourteen (14) and twenty-one (21). The on-the-job training shall be a cooperative arrangement between the school system and employers coordinated by the special education work-study program coordinator.

(21) A supervisor of instruction shall devote the allotted time for supervision to providing leadership services in the improvement of instruction in the school program by working with administrators, teachers, other supervisors, and the lay public. In districts entitled to a fractional unit or one (1) unit for a supervisor, this unit or fraction shall be for a general supervisor. Districts entitled to more than one (1) unit for a supervisor shall employ a general supervisor for the first unit. The program of supervision shall make provisions for:

(a) Cooperative curriculum revision and development involving the total staff.

(b) Assistance in the selection and use of good instructional materials.

(c) Preparation of study guides, courses of study, handbooks, and other materials adapted to local needs.

(d) Cooperative efforts with principals and classroom teachers to improve the learning environment in schools and to meet pupil needs.

(e) Adequate evaluation of the supervisory program in terms of improved instructional services.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: May 23, 1979
RECEIVED BY LRC: June 13, 1979
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance

704 KAR 4:015. Management of interscholastic athletics.

RELATES TO: KRS 156.070(2)
PURSUANT TO: KRS 13.082, 156.070, 156.060
NECESSITY AND FUNCTION: KRS 156.070(2) allows the State Board for Elementary and Secondary Education to designate an organization to manage interscholastic athletics in the common schools, and requires the state board to hear all appeals from the Kentucky High School Athletic Association.

Section 1. The State Board for Elementary and Secondary Education designates the Kentucky High School Athletic Association as the sole organization to manage interscholastic athletics in schools which are members in good standing of the Kentucky High School Athletics Association. Each local board of education is responsible to the State Board for Elementary and Secondary Education for interscholastic athletics in grades K-8.

Section 2. The Kentucky High School Athletic Association will submit annually the rules, regulations and bylaws to the State Board for Elementary and Secondary Education together with any proposed changes thereto.

Section 3. Appeals from the Kentucky High School Athletic Association Board of Control to the State Board for Elementary and Secondary Education shall follow the

procedures as provided by 701 KAR 5:020, Sections 2 through 5.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: May 23, 1979
RECEIVED BY LRC: June 13, 1979 at 1:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:010. Interest.

RELATES TO: KRS 157.820, 157.855
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To assign the benefits of invested construction account funds to the School Building Authority.

Section 1. Interest on invested construction funds and invested contract retainage in all construction fund accounts will accrue to the benefit of the authority and will be applied to the cost of the project for which bonds were sold under regulations of the authority.

ARNOLD GUESS, Director
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 17, 1979 at 3:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control

804 KAR 12:011. Repeals.

RELATES TO: KRS 243.250, 243.300, 243.720, 244.260, 244.310, 244.340.
PURSUANT TO: KRS 13.082, 241.060(1), (8), 244.230, 244.400, 244.430.
NECESSITY AND FUNCTION: The metric standards and container sizes contained in these regulations have been superseded by the 1978 Legislature amendments to KRS 244.260, 244.310 and 244.340. These regulations should be repealed in their entirety.

Section 1. 804 KAR 12:010 and 804 KAR 12:020 are hereby repealed.

BERNARD KEENE, Chairman
ADOPTED: April 30, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: June 5, 1979 at 11:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 7:010. Administration and enforcement.

RELATES TO: KRS Chapter 198B
PURSUANT TO: KRS 198B.040(7), 198B.050
NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for construction of all buildings in the state. This regulation establishes the administration and enforcement sections of the Kentucky Building Code.

Section 1. Definitions used in Title 815, Chapter 7:
(1) "Board of Housing" or "Board" means the Kentucky Board of Housing, Buildings and Construction.
(2) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.
(3) "Commissioner" means the Commissioner of the Department of Housing, Buildings and Construction.
(4) "Department" means the Department of Housing, Buildings and Construction.
(5) "Industrialized building system" or "building system" means a structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at a building site in Kentucky. "Industrialized building system" includes: a building of any size or for any use all or any component part of which is of closed construction made from precast concrete panels, or precut wood sections fabricated to individual specifications in an off-site manufacturing facility and assembled in accordance with the manufacturer's instructions.
(6) "KBC" means the Kentucky Building Code as established in this chapter.
(7) "Major structural change" means alterations or repairs made within any period of twelve (12) months, costing in excess of fifty (50) percent of the physical value of the structure, as determined by a comparison of the BOCA chart of construction costs and the value of the structure as established by the tax records of the county in which the property is located.
(8) "Person" means a person, partnership, corporation or other legal entity.
(9) "Single family dwelling" means one (1) unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which is not connected to any other unit or building.
(10) "Trade or brand name house" means any single structure made of precut or prefabricated panels, sections or individual pieces that are sold or prefabricated under a

name that identifies both the manufacturer and a particular type of structure he makes, and that are assembled on a permanent foundation by conventional homebuilding and electrical and plumbing installation techniques.

Section 2. Scope: This regulation shall supersede any and all other conflicting administration and enforcement provisions which may be incorporated by reference within the KBC.

(1) The KBC shall control all matters concerning the construction, alteration, addition, remodeling, use and occupancy classifications of all buildings in the state.

(2) Trade or brand name houses shall be constructed in accordance with the applicable provisions of the KBC.

(3) The provisions of the KBC relating to single family dwellings, that are not trade or brand name houses or industrialized building systems, shall be mandatory only after a local government, by ordinance, extends the application of the KBC to those units. However, the state plumbing code and the national electrical code shall be applicable to these units, whether or not the local government passes an ordinance. A local government may not enforce any building code other than the KBC on such units.

(4) Unless otherwise specifically provided within the KBC, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of the KBC.

(5) Nothing in the KBC shall require historic buildings listed on the state or federal register to conform to new building requirements because of their restoration.

(6) The KBC shall be construed to secure its expressed intent which is to secure public safety, health and welfare insofar as they are affected by building construction quality, electrical systems, plumbing, energy, boiler safety, handicapped accessibility, life safety from hazards of fire and explosion and other disasters. It is the further expressed intent of this code to avoid duplicative plan review and inspection of new construction and to gather together in one (1) set of regulations all the requirements relating to the construction of buildings in the state to enable builders, owners and building officials to be adequately informed.

Section 3. Applicability: (1) The provisions of the KBC shall cover all matters affecting or relating to buildings, and structures, as set forth in Section 2 above.

(2) No person shall construct a building or structure, extend, repair, remove or alter in violation of these provisions, except for ordinary repairs as defined in Section 4, and except further that the raising, lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted provided the building or structure is not otherwise altered or its use or occupancy changed.

(3) Any requirement essential for structural, fire or sanitary safety of a building essential for the safety of the occupants thereof, and which is not specifically covered by this code, shall be determined by other regulations of the department or other applicable law.

(4) Any person who violates any provision of the article or any other provision of the Kentucky Building Code shall be subject to the penalties provided in Section 19.

Section 4. Ordinary Repairs: Ordinary repairs to structures may be made without application or notice to the building official; but such repairs shall not include the cutting away of any wall, partition or portion thereof, or the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement or relocation of any standpipe, water supply, sewer or drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health and general safety.

Section 5. Installation of Service Equipment: When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electrical wiring, heating system or other equipment is specifically controlled by the provision of this code, it shall be unlawful to use such equipment until a certificate of approval has been issued therefor by the building official or other agency having jurisdiction.

Section 6. Existing Structures: (1) The legal use and occupancy of any structure existing on the effective day of this code or for which it had been heretofore approved, may be continued without change, except as may be specified in this regulation.

(2) Existing structures, when altered or repaired, as specified in this section, shall be made to conform with the requirements of the KBC for new structure, only to the extent provided herein.

(3) Alterations: All alterations, repairs, and additions except those "ordinary repairs" as defined in Section 4, shall be made in accordance with the terms of the KBC for new structure.

(4) Remodeling: Any major structural change, or a change to a more restrictive use group shall cause the entire building to be brought into conformity with the KBC requirements for new structures.

(5) Increase in size: If the building is increased in floor area or number of stories, the entire structure shall be made to conform with the requirements of the KBC in respect to life safety.

(6) Part change in use: If a portion of the structure is changed to a new more restrictive use group, and that portion is separated from the remainder of the structure with the required vertical and horizontal fire separation assemblies it shall be made to conform to the requirements for the new use and occupancy and the existing portion shall not be subjected to the requirements of the KBC relating to new structures.

Section 7. Departments of Building Inspection: (1) Each local government singularly or by association with other local governments shall employ a building official or inspector and other code enforcement personnel as necessary to enforce this code within its jurisdiction. The department shall be responsible for the enforcement of this code as it pertains to the buildings assigned by law to it.

(2) All building officials shall be appointed by the chief appointing authority for the respective jurisdictions and shall meet the qualifications for the position which may be established by the appointing authority.

(3) Official records shall be kept of all business and activities of the various local building departments or state building departments specified in provisions of the KBC, and all such records shall be open to the public inspection at all appropriate times under the terms and conditions of KRS Chapter 61.

Section 8. Duties and Powers of the Building Official: The local governments shall designate the persons to be charged with the responsibility of enforcing the KBC within its community and it shall neither adopt nor enforce

any ordinance regulating buildings which conflicts with the KBC. The local building official shall be responsible for the examination and approval of plans and specifications for the following buildings:

(1) All buildings classified as storage, residential, miscellaneous and temporary occupancies so long as they do not exceed three (3) stories in height or 20,000 square feet of floor area.

(2) All buildings classified as business occupancies having a capacity which does not exceed 100 persons, including buildings used for assembly type purposes but having a capacity of less than fifty (50).

(3) All buildings classified as factory and industrial occupancies having a capacity which does not exceed 100 persons.

(4) All buildings classified as mercantile occupancies having a capacity which does not exceed 100 persons.

Section 9. Duties and Powers of the Department. (1) It shall be the responsibility of the department to review plans and specifications, issue permits and to determine compliance with the KBC for the following buildings:

(a) All buildings classified as assembly occupancies;

(b) All buildings classified as educational occupancies;

(c) All buildings classified as institutional occupancies;

(d) All buildings classified as business and mercantile occupancies having a capacity in excess of 100 persons;

(e) All buildings classified as industrial and factory occupancies having a capacity in excess of 100 persons;

(f) All frozen food locker plants;

(g) All buildings classified as high hazard occupancies;

(h) All other buildings containing in excess of three (3) stories or 20,000 square feet of floor area;

(i) All industrialized building systems regardless of occupancy classification.

(2) Any local government may petition to the department for additional plan review responsiblity. Such petition shall include the evidence of the local governments capability to perform those functions, as required by regulations of the board. Denials of such petitions are appealable to the board.

(3) The appropriate official shall make all the required inspections, or he may accept reports of inspection by authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual.

(4) The building official or his authorized representative should carry proper credentials of his respective office for the purpose of inspecting buildings and premises and the performance of his duty under this code.

(5) The board shall have the powers as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate amendments to the code and other rules and regulations which are necessary to implement this code and by means of the appeals board procedures to issue interpretations which shall be binding upon the appellee and the building officials. The building official shall implement the provisions of this code to secure the intent thereof.

(6) In the absence of provisions not specifically contained in this code or approved rules and orders, the regulation, specifications and standards listed in Appendix B, "Accepted Engineering Practice," and Appendix C, "Accredited Materials Standards" of the 1978 Edition of BOCA, Inc., filed herein by reference, shall be deemed to represent accepted engineering practice with respect of materials, equipment, system or method construction therein specified, and shall therefore be acceptable.

Section 10. New Materials and Modifications: (1) It is the purpose of the KBC to set forth performance objections so as to facilitate new technologies, techniques and materials; therefore, alternate materials and equipment may be used provided such an alternative has been tested and listed by nationally recognized testing and research laboratories approved by the board.

(2) The building official may accept supporting data to assist him in his determinations: duly authenticated research reports from BOCA, Inc., or from other approved authenticated sources for all materials or assemblies proposed for use which are not specifically provided for in the KBC.

(3) Used materials, equipment and devices may be used provided they have been retested and placed in good and proper working condition and approved by the building official.

(4) When there are practical difficulties involved in carrying out structural or mechanical provisions of this code or of an approved rule, the building official having plan review responsiblity may vary or modify such provision upon application of the owner or his representative only if that the spirit and intent of the law shall be observed and equivalent safeguards provided. The application for modification and the final decision of the building official shall be in writing. When a modification is granted by a local building official, a copy of the application and the decision shall be forwarded to the department.

(5) The board may withdraw authority for plan review from a local building department where it finds, upon petition of the department, that the local inspection agency is not adequately performing any portion of its program and, thereafter, allow the department to preempt that portion of a local program.

Section 11. Inspections: (1) Before issuing a permit the appropriate building officials may examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit required by this code. No construction shall begin on buildings covered by this regulation until a local building official has issued a permit for such construction and an official representing the department has issued a permit (if it has plan review responsibility).

(2) After issuing a building permit for a building over which he has plan review responsiblity the building official shall conduct inspections from time to time during and upon completion of work and he shall maintain a record of all such examinations and inspections and of all violations of the KBC.

(3) The building official may accept reports of approved inspection services which satisfy the requirements of the appropriate governmental entity.

(4) Inspections for KBC compliance of trade or brand name homes shall be the responsibility of the local building official.

(5) In-plant inspections in production and manufacturing facilities for industrialized building systems as well as on-site inspection shall be conducted by the department or its authorized agent pursuant to 815 KAR 7:020. The local building official shall be responsible to inspect such system only for location under applicable local ordinances.

(6) Upon completion of the building, the owner or agent of the facility shall request a final inspection; the building official shall set a time for said inspection and notify the owner or agent. If compliance with the approved plans and permit has been achieved, a certificate of occupancy shall be issued, as described in Section 17. If compliance has not been achieved, any violations shall be noted and immediately communicated to the owner or agent.

Section 12. Right of Entry: Applicants for building permits shall be deemed to consent to inspection during construction and upon completion of construction for the purpose of determining that such building is constructed in compliance with the Kentucky Building Code, and the inspector may enter upon the premises during any reasonable hour.

Section 13. Application for Permit Required: (1) It shall be unlawful to construct, enlarge, or alter a structure; or change the type of occupancy of a building requiring greater strength, exiting or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is required by KBC, without first filing an application with the appropriate building officials in writing and obtaining the required permit therefor; except that ordinary repairs, as defined in Section 4, which do not involve any violation of KBC shall be exempt from this provision.

(2) The application for a permit shall be submitted in writing and in such form as the building official may prescribe and shall be accompanied by the required fee.

(3) The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the building official.

(4) Application for permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(5) The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to the KBC, specific information shall be given to establish such quality; and the KBC shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of a minor nature.

(6) Site plan: There shall also be a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.

(7) Engineering details: The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the responsible design professional. Plans for buildings more than two (2) stories in height shall indicate how required structural and fire resistance rating integrity will be maintained, and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(8) An application for permit for any proposed work should be deemed to have been abandoned six (6) months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the building official may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(9) Subject to the limitations of Section 13, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed a part of the original application and shall be filed therewith.

(10) The building official may revoke a permit or approval issued under the KBC in case of any false statements or misrepresentation in the application or on the plans.

Section 14. Permits Required: (1) The building official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

(2) Any permit issued shall become invalid if the authorized work is not commenced within one (1) year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

(3) The KBC shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been theretofore issued or otherwise lawfully authorized by approved plans, so long as the substantial construction on the project has commenced within one (1) year from the date the permit was issued.

(4) The building official shall attach his signature to every permit, or he may authorize a subordinate to affix such signature thereto.

(5) The building official shall record and communicate to the owner or agent, the terms and conditions related to his approval to commence construction.

(6) The building official may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(7) Approved plans: The building official shall stamp or endorse in writing both sets of corrected plans approved, and one (1) set of such approved plans shall be retained by him and the other set shall be kept at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

(8) A true copy of the building permit shall be kept on the site of operation open to public inspection during the entire time of prosecution of the work and until the completion of the same.

(9) At least twenty-four (24) hours notice of start of work under a building permit shall be given to the building official.

Section 15. Conditions of Permit. (1) A permit shall not be issued until the fees prescribed by the department or the local government have been paid. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the KBC, except as specifically stipulated by modification or legally granted variation as described in the application.

(2) All work shall conform to the appropriate application and plans for which the permit has been issued and any approved amendments thereto and shall be located strictly in accordance with the approved plot plan and any local ordinances governing the location of the building.

(3) A lot shall not be changed, increased or diminished in area from that shown on the official plot site plan, unless a revised plan showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved, except that such revised plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

Section 16. Fees: (1) A permit to begin work for new construction, alteration, removal, demolition or other building operations shall not be issued until the fees prescribed by law shall have been paid to the department or local building department, nor shall an amendment to a permit necessitating an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid.

(2) The payment of the fee for the construction, alteration, removal or demolition and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees of inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of building inspection.

(3) The fee for building permits and other functions performed pursuant to KRS Chapter 198B may be designed to fully cover the cost of the service performed; and the department and each local government is authorized to establish by approved rules or ordinances a schedule of unit rates for buildings and structures of all use groups and type of construction as classified and defined in the KBC.

Section 17. Certificate of Use and Occupancy. (1) No building on which site preparation and assembly were begun, after the Kentucky Building Code becomes effective as to that building, shall be occupied until the appropriate building official issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Kentucky Building Code, or assembled or installed in conformance with applicable instructions; except that:

(a) A building for which a permit was legally granted prior to the effective date of the KBC may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(b) A building for which plans were prepared at least three (3) months prior to the effective date of the KBC in a locality not then requiring a building permit may be completed and occupied without a building permit.

(2) A building or structure hereafter enlarged, extended or altered to change from one (1) use group to another or to a different use within the same use group, in whole or part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued by the building official, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the building official.

(3) After a change of use has been made in a building or structure, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless the building complies with all applicable provisions of this code. A change from one (1) prohibited use, for which a permit has been granted to another prohibited use shall be deemed a violation of this code.

(4) Upon the request of the holder of a permit, the building official may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(5) When a building or structure is entitled thereto, the building official shall issue a certificate of use and occupancy within ten (10) days after written application. The certificate shall certify compliance with the provisions of this code and the purpose for which the building may be used in its several parts. The certificate of use and occupancy shall specify the following information from the 1978 edition of the BOCA Basic Building Code: the use group, in accordance with the provisions of Article 2; the fire grading as defined in Article 2 and Table 902; the maximum live load on all floors as prescribed in Article 7; the occupancy load in the building and all parts thereof as defined in Article 2 and Article 6; and any special stipulations and conditions of the building permit.

Section 18. Posting Structures. (1) Every building and structure and part thereof designed for business, factory and industrial, high hazard, mercantile, or storage use (use groups B, F, H, M, and S) as defined by the KBC shall be posted on all floors by the owner with a suitably designed placard in a form designated by the building official, which shall be securely fastened to the structure in a readily visible place, stating: the use group, the fire grading, the live load and the occupancy load.

(2) Every room constituting a place of assembly shall have the occupancy load of the room posted in a conspicuous place, near the main exit from the room. Approved signs shall be maintained in a legible manner by the owner or his authorized agent. Signs shall be durable and shall indicate the number of occupants permitted for each room use.

(3) All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed, or defaced and, if lost, removed or defaced, shall be immediately replaced.

Section 19. Violations and Remedies. (1) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, use or occupy any building or structure or equipment regulated by the KBC,

or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code.

(2) The building official shall serve a notice of violation or order on the person responsbile for erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of this code or in violation of a detail statement or a plan approval thereunder, or in violation of a permit or certificate issued under the provisions of this code; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(3) If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or of the order or direction made pursuant thereto.

(4) Violation of penalties: Any person who shall violate a provision of the KBC or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or proper direction of the building official, or of a permit or certificate issued under the provisions of the KBC, shall be subject to such penalties as may be provided by KRS 198B.990 and other applicable law.

(5) Injunctive relief: The department or any local agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of the KBC.

(6) No person shall hinder an inspector enforcing any of the provisions of this code in the performance of his lawful duties under this chapter.

(7) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.

Section 20. Notice to Owner: (1) Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.

(2) Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the restraints provided in Section 19.

Section 21. Authority for Existing Buildings. (1) Upon the issuance of a final approval of a facility and the issuance of a lawful certificate of occupancy with respect to a particular facility, the building official's authority and responsibility as to that facility is ended so far as the KBC is concerned, unless the facility later becomes subjected to the KBC by virtue of Section 6.

(2) Other local or state law must be consulted to determine the existence of other powers given to the building official, such as those related to demolition or authority over unsafe structures, which are not specifically awarded him or her in the KBC.

(3) The State Fire Marshal's Office and the local fire official designated by the local government shall continue to be the persons responsible for enforcement of the standards of safety for existing buildings and shall also inspect for fire safety maintenance after a building has been given a final certificate by the building official, under KRS Chapter 227, and 815 KAR 10:015.

Section 22. Local Board of Appeals. (1) The mayor, chairman of the board of trustees, or county judge executive of a local government which is enforcing the Kentucky Building Code, may, upon approval of the local legislative body, appoint a local appeals board, consisting of at least three (3) technically qualified persons with professional experience related to the building industry, to hear appeals of the decisions of the local building official.

(2) Local governments which are enforcing the Kentucky Building Code may cooperate with each other and provide a local appeals board and shall adhere to the provision of KRS Chapter 65 when entering into such cooperative agreements.

(3) No local building official or employee of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has financial interest.

(4) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt.

(5) All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by registered mail no later than ten (10) days prior to the date of the hearing.

(6) The local appeals board shall render a decision within five (5) working days after the hearing. The board may uphold, amend or reverse the decision of a local building official, and there shall be no appeal from the decision of the local appeals board other than by appeal to the board.

Section 23. Appeals Procedures. (1) Where a local appeals board exists, a party must first appeal to the local board when aggrieved by a decision of the local building official.

(2) A party aggrieved by a decision of a local building official where no local appeals board exists may appeal directly to the board. The board shall further hear appeals directly from a party aggrieved by the decision of an agent of the department.

(3) Application for appeal may be made when it is claimed in writing that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction can be used, or that the building official has refused to grant a modification to the provisions of this code covering the manner of construction of materials to be used in the erection, alteration or repair of a building or structure.

(4) The board may appoint five (5) or more of its members, excluding the chairman of the board, to consider

the recommendations of the commissioner or to conduct hearings, and those appointed shall act in all matters concerning the appeal for the entire board.

(5) The board may adopt such rules, regulations and bylaws as are necessary to conduct said appeals; and no member of the board or committee may vote on any matter which will result in his direct or indirect financial gain.

(6) Appeals to the board shall be in writing and shall be addressed to the Commissioner of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601; Attention: Appeals Board. Such appeals shall include citations of those provisions of the Kentucky Building Code which are at issue, an explanation as stated in subsection (3) of why the decision of the state building official or local building official relative to those provisions is being contested and a copy of the decision rendered by the local appeals board, if any.

(7) The commissioner shall immediately notify the board when an appeal is received. The commissioner or a designated employee of the department shall then investigate the evidence pertaining to such an appeal, based upon the results of such investigation, make recommendations to the board or committee on the disposition of the case in question.

(8) No employee of the department shall investigate or make recommendation on an appeal to his own decision, but shall defer in such cases to employees who are not party to the decision which lead to the appeals.

(9) In conducting such investigation, the commissioner or the designated representatives, acting for the department shall have the authority to administer oath and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause disposition to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issue by consent of the parties.

(10) The commissioner shall cause such investigation to be completed and forwarded with written recommendations to the board within thirty (30) days after receiving such an appeal.

Section 24. Action of the Board. (1) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its regularly scheduled meeting but no later than thirty (30) days after receipt of such recommendations.

(2) If the board has authorized an appeals committee to hear an appeal, the committee shall act for the board in all matters related to the appeal.

(3) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediatley notified in writing of the time and place of such hearing by the commissioner. The board may further exercise the same powers of investigation as granted to the commissioner in Section 23. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(4) The board may uphold, amend or reverse the decision of a local appeals board, a local building official or the state building official; and the decision of the board or the appeals committee shall be final.

(5) The chairman of the board shall notify the appropriate building official and he or she shall take immediate action in accordance with the decision of the board.

(6) There shall be no appeal from the board's decision except to the circuit court within whose jurisdiction the property in question is located. Application for review shall be made to the proper court within thirty (30) days following that decision.

Section 25. Construction Control and Responsibilities: (1) The provisions of this section shall define the responsibility of the building official in relation to design professionals and the circumstances under which the department or the local building official shall be authorized to accept design professionals affirmation in their plans and specifications as to compliance with various provisions of this code.

(2) All new, alteration, repair, expansion, addition or modification work involving the practice of professional architecture and engineering as defined by KRS Chapters 322 and 323 shall be prepared by registered professional architects or engineers as certified by the state; and all plans, computations and specifications required for a building permit application for such work must be prepared by or under the direct supervision of the registered architect or engineer and bear his seal and signature in accordance with those statutes.

Section 26. Validity. (1) In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may or shall be determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

(2) Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

(3) The invalidity of any provision in any section of the KBC as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

Section 27. Effective Dates for KBC Application. (1) Any building required by Section 9(2) to be submitted to the Department of Housing, Buildings and Construction and which has not been submited and accepted for construction prior to February 15, 1980, must be constructed in compliance with the applicable provisions of the KBC.

(2) Any building required by Section 9(1) to be submitted to a local government for plan review and which has not been lawfully approved for construction prior to the following timetables shall be constructed in compliance with the applicable provisions of the KBC:

(a) In all local governments in a county containing a first or second class city or urban county government, no later than February 15, 1980.

(b) In all local governments in a county where the largest city is of the third or fourth class, no later than August 15, 1981.

(c) In all local governments in a county containing no city larger than fifth or sixth class, no later than August 15, 1982.

(3) Any local government may adopt the KBC voluntarily before the mandatory date stated in subsection (2) of this section.

Section 28. Whenever the department has entered into a contractual obligation requiring enforcement of applicable federally approved codes, the department shall approve plans and make inspections; using those federal codes as an

alternative to other applicable provisions of the KBC, so long as equivalent safety is maintained.

Section 29. Day Care Centers. Family child day care homes, group day care homes and child day care centers which comply with the provisions of the Life Safety Code, N.F.P.A. Phamplet #101, shall be deemed to have satisfied all the life safety requirements of the Kentucky Building Code.

CARL F. SMOAK, Acting Commissioner
ADOPTED: June 15, 1979
RECEIVED BY LRC: June 15, 1979 at 12:30 p.m.
PUBLIC HEARING: A public hearing will be held on this regulation at 1 p.m., EDT, on Thursday, August 2, 1979 in the Basement Auditorium of the Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B
PURSUANT TO: KRS 198B.040(7), 198B.050
NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems.

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1978 Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA Basic Building Code/1978," Seventh Edition, published by and copies available from Building Officials and Code Administrators International, 17926 South Halsted Street, Homewood, Illinois 60430. That code, including all standards listed in Appendices A through N are hereby adopted by reference with the following additions, exceptions and deletions:

(1) Delete Article 1 in its entirety.

(2) Change subsection 201.3 to include the following additional definitions:

(a) "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."

(b) "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."

(c) "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as if appeared at a specific period of time."

(d) "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."

(e) "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work."

(f) "Stabilization: The process of applying measures designed to re-establish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."

(3) Change subsection 201.3 definitions to read as follows:

(a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of general household habitation."

(b) "Story: That part of the building comprised between a floor and the floor or roof next above which is not a basement or an attic."

(4) Change subsection 209.5 to read as follows: "209.5 groups R-4 Structures: This use group shall include all detached one- or two-family dwellings not more than than three (3) stories in height, and their accessory structures as indicated in the Appendix B Standard, One- and Two-Family Dwelling Code. All such structures shall be designed in accordance with the requirements of this code for use group R-3 structures; except that, the one- and two-family dwelling code is deemed to be an acceptable alternative code book when used in its entirety and may be used to satisfy the requirements for this use group."

(5) Change subsection 304.1.1 to read as follows: "304.1.1 Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Section 6 of 815 KAR 7:010 provided an unlawful change of use is not involved."

(6) Delete Sections 315.1 through 315.11 and substitute the following: "315.1 Requirements for accessibility of the handicapped: Please see 815 KAR 40:010 for construction requirements providing accessibility to the handicapped in public buildings and public accommodations."

(7) Change subsection 316.1 to read as follows: "316.1 Approval: The provisions of this code relating to the reconstruction, restoration, stabilization, rehabilitation, and moving of buildings or structures shall not be mandatory for existing buildings or structures, identified and classified on the National Register of Historic Places or otherwise classified as historic by the Kentucky Department of Housing when such buildings or structures are judged by the department to be safe and in the public interest of health, safety and welfare. The department may require submission of architectural and engineering plans and specifications prior to a determination.

(8) Change subsection 403.2 to read as follows: "403.2 Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire officials to insure maintenance of good housekeeping conditions."

(9) Change Section 413.1 to read as follows: "Private garages located beneath a one- and two-family dwelling shall have walls, partitions, floors and ceilings separating the garage space from the dwelling constructed of not less than one (1) hour fireresistance rating. Private garages attached to a one- and two-family dwelling shall be completely separated from the dwelling and its attic area by means of one-half (½) inch gypsum board or equivalent applied to the garage side. In lieu of the required one and three quarter (1¾) inch solid core door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic smoke detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 505 and Section 604 in their entirety.

(11) Change Section 700.0 by creating a new subsection which shall read as follows: "700.2 Certificate of Compliance: the provisions of this article may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(12) Delete subsections 904.3.2, 904.3.3, 904.3.4 in their entirety.

(13) Change subsection 1100.2 to read as follows: "1100.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two new subsections to Section 1100.0 which shall read as follows:

(a) "1100.3 Unfired Pressure Vessels. All unfired pressure vessels shall meet the standards set forth in Section VIII of the 1977 Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "1100.4 Mechanical Code: All mechanical equipment and systems not covered by 1100.2 or 1100.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix B, shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1978 including all applicable standards listed within Appendices B through E."

(15) Delete Article Fourteen (14) in its entirety.

(16) Delete subsections 1500.1 through 1506.5 and substitute the following:

(a) "1500.1 Installations and Repairs. All electrical wiring and equipment shall be installed in conformity with the National Electrical Code incorporated by reference in the Kentucky Building Code.

(b) "1500.2 Certificate of Approval. Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:010 and no utility company shall supply electricity until the required certificate of approval has been issued. Nothing in this article shall prohibit the supply or use of necessary electrical services during the construction and testing process."

(c) "1500.3 Permission: The building official may in his discretion give temporary permission for a reasonable time to supply and use current in part of an electrical installation before such installation has been fully completed and the final certificate of approval has been issued; provided, that the part covered by the temporary certificate complies with all the requirements specified for lighting, heat or power in the National Electrical Code."

(17) Delete subsections 1700.1 through 1705.43 in their entirety and substitute the following: "1700.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

CARL F. SMOAK, Acting Commissioner
ADOPTED: June 15, 1979
RECEIVED BY LRC: June 15, 1979 at 12:30 p.m.
PUBLIC HEARING: A public hearing will be held on this regulation at 1 p.m., EDT, on Thursday, August 2, 1979 in the Basement Auditorium of the Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 7:030. Energy code.

RELATES TO: KRS Chapter 198B, KRS 227.480
PURSUANT TO: KRS 198B.040(7), 198B.050
NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the requirements for energy conservation in new buildings.

Section 1. The Board of Housing, Buildings and Construction hereby adopts the "BOCA Basic Energy Code/1978" published by and copies available from Building Officials and Code Administrators International, Inc., 17926 South Halsted Street, Homewood, Illinois 60430. These code provisions, including all standards listed in Appendices A, B, C, D, E, and F, are hereby adopted by reference and included in the Kentucky Building Code.

CARL F. SMOAK, Acting Commissioner
ADOPTED: June 15, 1979
APPROVED: MIKE HELTON, Secretary
RECEIVED BY LRC: June 15, 1979 at 12:30 p.m.
PUBLIC HEARING: A public hearing will be held on this regulation, at 1 p.m., EDT, on Thursday, August 2, 1979 in the Basement Auditorium of the Capital Plaza Tower, Frankfort, Kentucky, 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 30:040. Anhydrous ammonia.

RELATES TO: KRS 250.483, 250.484
PURSUANT TO: KRS 227.300, 250.483
NECESSITY AND FUNCTION: KRS 250.484 requires that all equipment connected with anhydrous ammonia shall be installed and maintained in conformity with the

rules and regulations of the Department. Pursuant to KRS 227.300, the functions, duties and responsiblities vested in the Department of Insurance, concerning anhydrous ammonia were transferred to the Division of Fire Prevention, Department of Housing, Buildings and Construction. This proposed regulation sets forth the safety regulations for the storage and handling of anhydrous ammonia.

Section 1. "Anhydrous ammonia" means the compound found by the combination of two (2) gaseous elements, nitrogen and hydrogen, in the proportion of one (1) part nitrogen to three (3) parts of hydrogen by volume. Anhydrous ammonia is ammonia gas in compressed or liquefied form, and is not aqueous ammonia.

Section 2. Scope. (1) The minimum standards set forth in Section 3 are intended to apply to the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing anhydrous ammonia.

(2) This standard does not apply to:

(a) Ammonia manufacturing plants.

(b) Refrigeration plants where ammonia is used solely as a refrigerant. It is suggested that such plants refer to ANSI-B-9-1, Code for Mechanical Refrigeration.

(c) Ammonia transportation pipelines.

Section 3. Standards. The standards for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing anhydrous ammonia shall be American National Standards (safety regulations for the storage and handling of anhydrous ammonia) ANSI K 61.1-1972, also known as either CGA-G-2.1-1972 or TFI-MO1972, filed herein by reference. This standard represents the consensus of the Compressed Gas Association, Inc., the Fertilizer Institute and other interested parties concerning minimum safety regulations for the storage, transportation and handling of anhydrous ammonia. Copies are available for a fee from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

CARL F. SMOAK, Acting Commissioner
ADOPTED: May 29, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: May 31, 1979 at 10:00 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Judith G. Walden, Legal Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:081. Crises oriented program for emergencies (COPE).

RELATES TO: KRS 205.810
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 205.810 to provide short term assistance to single or married adults in crisis situations (i.e., facing destitution) or in financial need. This regulation sets forth the criteria for eligibility and type and amounts of assistance available under the Crisis Oriented Program for Emergencies, hereinafter referred to as COPE.

Section 1. Application: Each individual or couple requesting assistance will be required to complete an application and provide such information as may be deemed necessary to determine eligibility, in accordance with the procedural requirements prescribed by the department.

Section 2. Definitions: Terms used in the COPE program are defined as follows:

(1) "Destitution, or facing destitution," is that situation in which an individual or couple is deprived or being threatened by deprivation of the basic necessities of shelter, utilities, food, or clothing, if needed due to a loss in a natural disaster.

(a) "Lack of shelter" is the inability to pay rent or mortgage and/or lack of both sleeping and cooking facilities.

(b) "Lack of utilities" is the inability to pay or secure utilities or lack of heat during cold weather. It is also the inability to secure or maintain phone service that has been determined medically necessary.

(c) "Lack of food" is the inability to purchase or obtain sufficient food due to financial need and/or ineligibility for food stamps.

(d) "Lack of clothing" must be the result of a natural disaster. It is the inability to obtain or purchase appropriate garments in order to protect the individual's or couple's health and welfare. A natural disaster is defined as a fire, flood, storm, tornado, or earthquake.

(2) "Financial need" is defined as a situation in which an individual's or couple's income and resources are below the standards precribed by the department.

(3) "A single individual" is any person age eighteen (18) or over and not married, or if married, not residing with his/her spouse.

(4) "A couple" is any man and woman legally married (or holding out to the community as married) at least one (1) of whom is age eighteen (18) or over.

(5) "Other family" is any of the following: mother, father, daughter, son, brother, or sister (including relatives of the half blood) whose spouse also resides in the same household.

Section 3. Eligible Groups: Any single individual or couple (as defined above), who are destitute or in financial need, whose children (if there are any and they are residing with the applicant), are not under twenty-one (21) years of age, may qualify for COPE unless excluded in accordance with Section 4, below.

Section 4. Exclusion of Specified Groups: The following are excluded from eligibility:

(1) An individual or couple who creates the situation of destitution or financial need by refusal to accept or continue employment, or training for employment without "good cause" in accordance with 45 CFR 233.100(a)(3)(ii) is ineligible for thirty (30) days from the date of refusal. Good cause shall not exist if destitution is due solely to direct participation in a labor dispute. ("Direct participation" exists if the individual is: on strike, whether or not such strike is legal; or not working as a result of honoring or refusing to cross picket lines set up by those who are on strike; or not working due to lack of work resulting from a strike situation if employed in a managerial or supervisory

position by the firm/organization whose workers are on strike.)

(a) If employment is no longer available following the thirty (30) day period, the application shall be approved if all other eligibility criteria are met. If employment still remains available at the end of the thirty (30) day period, the applicant is ineligible for as long as the employment remains available for a period of time not to exceed six (6) months.

(b) Any individual/couple fired from a job shall not be automatically precluded from participation in the program.

(2) Any single individual under age twenty-one (21) who has been claimed as a tax dependent within the past year, unless it can be substantiated that he/she will not be claimed as a tax dependent in the current year.

(3) Any individual living with both parents.

(4) Any individual or couple living with other family as defined in Section 2(5). (For example, if a man and his wife were living with his brother and the brother's wife, both couples would be ineligible.)

Section 5. Work Registration: A condition for eligibility shall be work registration unless exempt as specified below:

(1) Any individual over age sixty-five (65).

(2) Students who are enrolled at least half-time (as defined by the institution or program in which they are enrolled) in any accredited school or recognized training program. The exemption continues during regularly scheduled school vacations if attendance will be resumed immediately following such break.

(3) Disabled/incapacitated persons who are physically or mentally unable to engage in gainful employment. Recipients of the following benefits will be considered exempt under this criteria: Supplemental Security Income (SSI); or Retirement Services Disability Insurance (RSDI); or MA only as a blind or disabled individual. In addition those persons who are obviously disabled/incapacitated are exempt, e.g., accident victims in casts and/or bandages, those using wheel chairs or crutches, etc. Other persons claiming exemption due to disability/incapacity are exempt if written documentation from medical sources is provided to or made available to the department.

(4) Persons employed at least thirty (30) hours a week.

(5) Self employed persons, if the self-employment requires activity of at least thirty (30) hours per week on an annual basis. Verification of income received establishes the exemption if it appears consistent with full time employment.

(6) Narcotic addicts or alcoholics if regularly participating in a nonresidential treatment or rehabilitation program.

Section 6. Recoupment of Payments: Any recipient who subsequently receives retroactive benefits for the same period that a COPE payment has been made shall be responsible for reimbursing the department the full benefit amount up to the amount of the COPE payment.

Section 7. Duration of Assistance: Assistance shall be limited to one (1) period of thirty (30) consecutive days in any twelve (12) consecutive months.

Section 8. Income and Resources Limitations: Income and resources of the individual or couple shall be considered in accordance with the following:

(1) All continuing earned and unearned income and noncontinuing income anticipated to be received during the month of approval, shall be considered available to the applicant. Any federal, state, or local benefit which is specifically designated for a special need shall not be considered in computing gross income.

(2) An individual or couple shall be determined ineligible for assistance if monthly gross income determined in accordance with Section 8(1) exceeds $265 for the individual or $350 for the couple.

(3) Liquid assets of the individual or couple shall be considered in determining eligibility. Liquid assets include, but are not limited to, cash on hand, checking account(s), savings account(s), stocks, bonds, and certificates of deposit. Total liquid assets in excess of $500 for the individual or $750 for the couple shall result in a determination of ineligibility.

Section 9. Treatment of Income: If net income exceeds needs, the applicant is determined ineligible for needs payments. For any otherwise eligible individual or couple the first $130 or $160, as applicable, of net income shall be protected (disregarded) in determining benefit amounts payable under the program. Income in excess of the protected amounts shall be applied to the needs of the applicant or recipient. In no instance shall excess income reduce the payment maximum for needs.

Section 10. Cash Payment Maximum: An otherwise eligible individual or couple shall be entitled to receive such cash payment as may be necessary to bring the total net monthly income up to the respective protected income amounts specified in Section 9 ($130 for an individual or $160 for a couple).

Section 11. Needs Payment Maximums: The department shall pay reasonable amounts for food, clothing, and shelter/utilities not to exceed $160 or $210 for an individual or couple respectively, in accordance with the following:

(1) Food may be provided up to the value of one (1) month's equivalent food stamp allotment for the eligible individual or couple.

(2) Clothing, the need for which was the direct result of a natural disaster, may be provided to an eligible individual or couple to ensure a minimum supply of basic apparel in amounts determined necessary by the department.

(3) Shelter needs may be met as necessary to obtain or retain a home or to secure temporary lodging for the destitute individual or couple. The department shall pay more than one (1) month's rent or mortgage payment only if such is determined necessary by the department.

(4) Utility needs including deposits may be met as necessary to obtain or maintain electricity, natural gas, and water. Payments for kerosene and/or bottle gas and coal may be authorized if the living situation requires it.

(5) Payments for phone service deemed medically necessary may include deposit and/or installation charges. Payments for the base rate may not exceed the rate utilized for food stamp households.

Section 12. Right to a Fair Hearing: Any applicant for or recipient of COPE has the right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 13. Agency Determination: Any individual or couple not meeting all eligibility criteria or who do not pro-

vide sufficient information necessary to make an eligibility determination shall be found ineligible for benefits under the program. Any individual or couple found to meet all eligibility requirements shall be provided assistance in a timely manner.

Section 14. Effective Dates: The COPE program shall continue throughout each fiscal year after implementation until such time as funds allotted for the program by the legislature have been expended. In the event the Governor, or the Secretary of the Department for Human Resources, makes additional funds available for the continuation or reactivation of the COPE program, the program shall continue or be reactivated under the same terms and conditions as previously set forth.

GAIL S. HUECKER, Commissioner
PETER D. CONN, Secretary

ADOPTED: May 8, 1979
RECEIVED BY LRC: June 1, 1979 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40601.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of June 6, 1979 Meeting

(Subject to subcommittee approval at its next regularly scheduled meeting on July 2, 1979 at 1:00 p.m., in room 327 of the Capitol.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, June 6, 1979, at 10 a.m., in room 327 of the Capitol. The minutes of the May 2, 1979 meeting were approved. Present were:

Members: Representative William T. Brinkley, Chairman; Senator Donald L. Johnson and Representative Albert Robinson.

Guests: Eugene F. Mooney, Marti Hall, Hisham M. Saaid, Gautam Trivedi, Larry Wilson and Stephen R. Wyatt, Department for Natural Resources and Environmental Protection; Don McCormick and Joe Bruna, Department of Fish and Wildlife Resources; Herbert Van Arsdale, III, Board of Auctioneers; Michael D. Ragland, Fred Huggins, Jerry Hammond, Kenneth E. Hollis and Robert Harrison, Department of Labor; L. Wayne Tune, Board of Architects; Connie Hauser, Board of Physical Therapy; Ellyn Crutcher, Energy and Utility Regulatory Commissions; Carroll Roberts, Board of Hairdressers and Cosmetologists; Pat Miller, Teachers' Retirement System; Bob Flener, Department of Transportation; Ed Fossett, Lee Tyler and William C. Sanders, Jr., Department of Education; Dale Brodkey, Attorney General's Office; Joyce Bell, Charles M. Hardin, Donald R. Hughes, Donald A. Flater and Ked Fitzpatrick, Department for Human Resources; Cathy Utley, Department of Finance; Eva Smith, Department of Public Information; Andrew Cammack, Environmental Quality Commission; Gene Barnes, League of Women Voters; Carolyn Embry, Sierra Club; Mack Morgan and John D. Hinkle, Kentucky Retail Federation; Bill K. Caylor, Kentucky Coal Association; Donald E. Everhart, Tecumseh Products Co.; Doug Oliver and H. David Caldwell, East Kentucky Power; David S. Beck, Kentucky Farm Bureau; Lowell Reese, Kentucky Chamber of Commerce; Joe Simpson, Whirlpool Corp.; Howard G. Myers, Kentucky Forest Industries Assn.; Bill Bowser and Tom Bell, Kent Sub. of Walter Kidde.

Press: Dave White and Richardo Thomas, WLEX-TV.

LRC Staff: Mabel D. Robertson, Joe Hood, Garnett Evins, Deborah Herd, Phyllis Herman and Brooks Talley.

Chairman Brinkley called the meeting to order and announced that the first order of business would be the consideration of the proposed air quality regulations.

Secretary Mooney offered amendments to seven of the proposed regulations. He said he had cleared the amendments with the corporations that will be affected by the regulations.

Senator Johnson moved that the amendments be filed, seconded by Representative Robinson, and motion carried.

The subcommittee heard closing arguments on all of the air quality regulations. On motion of Senator Johnson, seconded by Representative Robinson, the following regulations were rejected because they exceed federal guidelines and therefore do not conform to legislative intent.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

New Source Standards

401 KAR 59:046. Selected new petroleum refining processes and equipment.

401 KAR 59:050. New storage vessels for petroleum liquids.

401 KAR 59:095. New oil-effluent water separators.

401 KAR 59:100. New loading facilities at bulk gasoline terminals.

401 KAR 59:101. New bulk gasoline plants.

401 KAR 59:180. New automobile and light duty truck surface coating operations.

401 KAR 59:185. New solvent metal cleaning equipment.

401 KAR 59:190. New insulation of magnet wire operations.

401 KAR 59:195. New metal furniture surface coating operations.

401 KAR 59:200. New large appliance surface coating operations.

401 KAR 59:210. New fabric, vinyl and paper surface coating operations.

401 KAR 59:215. New can surface coating operations.

401 KAR 59:220. New coil surface coating operations.

Existing Source Standards

401 KAR 61:005. General provisions.
401 KAR 61:045. Existing oil effluent water separators.
401 KAR 61:050. Existing storage vessels for petroleum liquids.
401 KAR 61:055. Existing loading facilities at bulk gasoline terminals.
401 KAR 61:056. Existing bulk gasoline plants.
401 KAR 61:060. Existing sources using organic solvents.
401 KAR 61:090. Existing automobile and light duty truck surface coating operations.
401 KAR 61:095. Existing solvent metal cleaning equipment.
401 KAR 61:100. Existing insulation of magnet wire operations.
401 KAR 61:105. Existing metal furniture surface coating operations.
401 KAR 61:110. Existing large appliance surface coating operations.
401 KAR 61:120. Existing fabric vinyl and paper surface coating operations.
401 KAR 61:125. Existing can surface coating operations.
401 KAR 61:130. Existing coil surface coating operations.
401 KAR 61:135. Selected existing petroleum refining processes and equipment.

General Standards of Performance

401 KAR 63:010. Fugitive emissions.

On motion of Senator Johnson, seconded by Representative Robinson the following air quality regulations were approved and ordered filed:

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

General Administrative Procedures

401 KAR 50:005. General application.
401 KAR 50:010. Definitions and abbreviations.
401 KAR 50:015. Documents incorporated by reference.
401 KAR 50:020. Air quality control regions.
401 KAR 50:025. Classification of counties.
401 KAR 50:030. Registration of sources.
401 KAR 50:035. Permits and compliance schedules.
401 KAR 50:040. Air quality models.
401 KAR 50:045. Performance tests.
401 KAR 50:050. Monitoring.
401 KAR 50:055. General compliance requirements.
401 KAR 50:060. Enforcement.

New Source Requirements; Non-attainment Areas

401 KAR 51:005. Purpose and general provisions.
401 KAR 51:010. Attainment status designations.
401 KAR 51:015. Prevention of significant deterioration of ambient air quality.
401 KAR 51:050. Stationary sources; constructing in or impacting upon non-attainment areas.

Ambient Air Quality

401 KAR 53:005. General provisions.
401 KAR 53:010. Ambient air quality standards.

Emergency Episodes

401 KAR 55:005. Significant harm criteria.
401 KAR 55:010. Episode criteria.
401 KAR 55:015. Episode declaration.
401 KAR 55:020. Abatement strategies.

Hazardous Pollutants

401 KAR 57:005. General provisions.
401 KAR 57:010. Asbestos emissions.
401 KAR 57:015. Beryllium emissions.
401 KAR 57:020. Mercury emissions.
401 KAR 57:025. Beryllium rocket motor firing.
401 KAR 57:030. Vinyl chloride emissions.

New Source Standards

401 KAR 59:005. General provisions.
401 KAR 59:010. New process operations.
401 KAR 59:015. New indirect heat exchangers.
401 KAR 59:020. New incinerators.
401 KAR 59:025. New portland cement plants.
401 KAR 59:030. New nitric acid plants.
401 KAR 59:035. New sulfuric acid plants.
401 KAR 59:040. New asphalt concrete plants.
401 KAR 59:045. New petroleum refineries.
401 KAR 59:055. New secondary lead smelters.
401 KAR 59:060. New secondary brass and bronze ingot production plants.
401 KAR 59:065. Steel plants using new basic oxygen process furnaces.
401 KAR 59:070. New sewage treatment plants.
401 KAR 59:080. New kraft (sulfate) pulp mills.
401 KAR 59:081. New kraft pulp mills.
401 KAR 59:085. New sulfite pulp mills.
401 KAR 59:090. New ethylene producing plants.
401 KAR 59:105. New process gas streams.
401 KAR 59:110. New primary copper smelters.
401 KAR 59:115. New primary zinc smelters.
401 KAR 59:120. New primary lead smelters.
401 KAR 59:125. New primary aluminum reduction plants.
401 KAR 59:130. Phosphate fertilizer industry; new wet process phosphoric acid plants.
401 KAR 59:135. Phosphate fertilizer industry; new super-phosphoric acid plants.
401 KAR 59:140. Phosphate fertilizer industry; new diammonium phosphate plants.
401 KAR 59:145. Phosphate fertilizer industry; new triple superphosphate plants.
401 KAR 59:150. Phosphate fertilizer industry; new granular triple super-phosphate storage facilities.
401 KAR 59:155. New coal preparation plants.
401 KAR 59:160. New ferroalloy production facilities.
401 KAR 59:165. Steel plants and foundries using new electric arc furnaces.
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401 KAR 61:010. Existing incinerators.
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401 KAR 61:085. Existing service stations.
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401 KAR 61:145. Existing petroleum refineries.
General Standards of Performance
401 KAR 63:005. Open burning.
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401 KAR 63:020. Potentially hazardous matter or toxic substances.
401 KAR 63:025. Asphalt paving operations.
Mobile Source-Related Emissions
401 KAR 65:005. Liquefied petroleum gas carburetion systems.

On motion of Senator Johnson, seconded by Representative Robinson, the following regulations were deferred until the July meeting:

REGISTRY OF ELECTION FINANCE
Reports and Forms
801 KAR 1:007. Committees; definitions, responsibilities.

DEPARTMENT OF TRANSPORTATION
Bureau of Highways
Traffic
603 KAR 5:050. Uniform traffic control devices.

DEPARTMENT OF LABOR
Labor Standards; Wages and Hours
803 KAR 1:020. Employment of apprentices and trainees.

On motion of Senator Johnson, seconded by Representative Robinson, the following regulations were approved and ordered filed:

TEACHERS' RETIREMENT SYSTEM
General Rules
102 KAR 1:057. Credit for military service.

CRIME VICTIMS COMPENSATION BOARD
Claims and Awards
107 KAR 1:005. Claim filing.

OCCUPATIONS AND PROFESSIONS
Board of Auctioneers
201 KAR 3:005. Name required on advertising.
201 KAR 3:035. Real estate sales by auction.
201 KAR 3:045. Recordkeeping and accounting.
201 KAR 3:055. Apprenticeship residency requirements.
Board of Hairdressers and Cosmetologists
201 KAR 12:100. Sanitation standards.
Board of Examiners and Registration of Architects
201 KAR 19:095. Professional practice standards; violations, penalties.
Board of Physical Therapy
201 KAR 22:020. Application for licensure.
201 KAR 22:100. Assistant's eligibility for certification.
201 KAR 22:105. Certification of assistants.

DEPARTMENT OF FISH AND WILDLIFE RESOURCES
Game
301 KAR 2:047. Specified areas; season, limits for birds and small game.
301 KAR 2:108. Deer and turkey season on specified federal areas.

DEPARTMENT OF JUSTICE
Bureau of Training
Kentucky Law Enforcement Council
503 KAR 1:040. Basic training certification.

DEPARTMENT OF EDUCATION
Planning
701 KAR 1:020. State plan for the administration of ESEA Title IV.
Bureau of Administration and Finance
General Administration
702 KAR 1:010. Facilities survey.
702 KAR 1:020. Length of employment.
School District Finance
702 KAR 3:120. Uniform school financial accounting system.
702 KAR 3:130. Internal accounting.
702 KAR 3:140. Bidding guidelines.
Bureau of Pupil Personnel
School Terms, Attendance and Operations
703 KAR 2:020. Calendar.
Bureau of Instruction
Instructional Services
704 KAR 3:290. Title I, ESEA annual program plan.
704 KAR 3:292. Title I, ESEA migrant plan.
704 KAR 3:312. Follow-through plan for technical assistance grant.
Techer Certification
704 KAR 20:146. Media librarians, teaching certificate for.

DEPARTMENT OF LABOR
Occupational Safety and Health
803 KAR 2:030. Adoption of 29 CFR Part 1926.
803 KAR 2:092. Pay during inspection activities.
803 KAR 2:122. Application for extension of abatement.
803 KAR 2:125. Posting of citations.
803 KAR 2:127. Failure to correct violation, additional penalty.

Elevator Safety
803 KAR 4:010. Elevator inspection.

PUBLIC SERVICE COMMISSIONS
Utility Regulatory Commission
807 KAR 25:010. Rules of procedure.
807 KAR 25:020. General rules.
807 KAR 25:030. Tariffs.
807 KAR 25:050. Water.
Energy Regulatory Commission
807 KAR 50:005. Rules of procedure.
807 KAR 50:025. Tariffs.
807 KAR 50:035. Gas.
807 KAR 50:045. Gas service; service lines.
807 KAR 50:050. Gas well determinations.
807 KAR 50:055. Water.
807 KAR 50:065. Electric.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Radiation Operators Certification
902 KAR 105:030. Teaching institutions curricula.
Bureau of Social Insurance
Medical Assistance
904 KAR 1:019. Pharmacy services.

On motion of Senator Johnson, seconded by Representative Robinson the meeting was adjourned at 12:15 p.m.

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